

1963

Present : Herat, J., and Abeyesundere, J.

I. W. M. JAYASENA, Appellant, and H. M. BANDARA MENIKE,
Respondent.

S. C. 264/61—D. C. Kurunegala, 1271

Kandyan Marriage and Divorce Act—Dissolution of marriage thereunder—Power of District Registrar to include an order of maintenance in favour of the wife—Sections 2, 32, 33 (7), 69.

When a marriage contracted before 1st August 1954 is dissolved under the provisions of the Kandyan Marriage and Divorce Act, the provisions of section 69, read with section 33 (7), of the Act permit the District Registrar to include in the order of dissolution of the marriage a provision requiring the husband to pay a certain sum monthly as maintenance to the wife.

A PPEAL from a judgment of the District Court, Kurunegala.

N. E. Weerasooria, Q.C., with W. Wimalachandra and M. T. M. Sivardeen, for the Respondent-Appellant.

T. B. Dissanayake, for the Petitioner-Respondent.

October 24, 1963. ABEYESUNDERE, J.—

In this case the respondent-appellant and the petitioner-respondent were married on 20th September, 1953, and their marriage was dissolved on 17th July, 1959, under the provisions of the Kandyan Marriage and Divorce Act which came into force on 1st August, 1954.

Section 2 of that Act provides that the provisions of that Act shall not, unless otherwise expressly provided therein, apply to marriages contracted before the appointed date. The appointed date is 1st August, 1954.

Section 69 of the aforesaid Act provides that a marriage registered under the Kandyan Marriage Ordinance may be dissolved on all or any of the grounds specified in section 32 of that Act, and accordingly for that purpose and that purpose only the provisions of Part IV of that Act shall apply in like manner and to the same extent as they apply to Kandyan marriages.

The District Registrar had in this case included in the order of dissolution of the marriage the provision requiring the respondent-appellant who was the husband to pay Rs. 25 monthly as maintenance to the petitioner-respondent who was the wife. This order for maintenance appears to have been made under subsection (7) of section 33 which is in Part IV of the aforesaid Act.

Mr. N. E. Weerasooria, Q.C., who appeared for the respondent-appellant argued that, by reason of the provisions of section 69, only section 32 of Part IV of the aforesaid Act, which specifies the grounds for divorce, applied and not the other sections of that Part. He contended that the provision for the maintenance of the wife incorporated in the order of dissolution of the marriage was invalid as it had been made without jurisdiction.

We are unable to agree with Mr. Weerasooria's interpretation of section 69 of the aforesaid Act. Our view is that, for all purposes connected with the dissolution of a marriage, the provisions of Part IV of the aforesaid Act are applicable under section 69 of that Act. The District Registrar had therefore jurisdiction to include in the order of dissolution of the marriage the provision he had made in regard to the maintenance of the wife.

We dismiss the appeal with cost~

HERAT, J. — I agree.

Appeal dismissed.

