

Mrs. Josephine Clare Williams vs Cecil Walter Williams And E.A. Lyons on 1 August, 1952

Equivalent citations: AIR1952ALL899, AIR 1952 ALLAHABAD 899

Author: Raghubar Dayal

Bench: Raghubar Dayal

JUDGMENT

Raghubar Dayal, J.

1. This is an application by Mrs. Josephine Clare Williams respondent for the confirmation of the decree for dissolution of marriage passed by the District Judge of Agra against her on the application of her husband on the ground that she and the co-respondent were living in adultery at Agra.
2. We have been through the record and are satisfied that there is no collusion between the petitioner and her husband and that she had been living in adultery with the co-respondent.
3. It was held in *Pushong v. Mrs. Pushong*, A. I. R. 1934 ALL 624 (1) S. B. that a respondent, a guilty party, cannot apply for the confirmation of the decree for dissolution of marriage. The view was based on the English practice. Since then Section 9, Matrimonial Causes Act, 1937, 1 Edward the Eighth and 1 George the Sixth, adds Sub-section (3) to Section 183 of the principal Act providing thereby that a party against whom a decree nisi has been granted would be at liberty to apply to the Court for confirmation of the decree provided the petitioner who had obtained the decree has not applied within the specified period. In view of this amendment of the Act in England and in view of Section 7, Divorce Act, 1869, we are of opinion that we should no more follow the case reported in *Pushong v. Pushong*. We hold that the party against whom a decree has been passed can also apply for the confirmation of the decree.
4. We, therefore, confirm the decree passed by the District Judge, Agra, dissolving the marriage of the applicant with Cecil Walter Williams.