

Important Case Laws:

Ruchi Majoo vs. Sanjeev Majoo Case No: Civil Appeal No. 4435 of 2003 with Criminal Appeal No. 1184 of 2011, Date of Decision: 16 May 2011

The Supreme Court of India in Ruchi Majoo vs. Sanjeev Majoo, pronounced an interesting and significant decision which comes as hope for Indian women deserted by their NRI/Overseas spouse, fighting a legal battle in India. The Supreme Court has ruled that Indian courts have jurisdiction to deal with custodial disputes of minor children even if a foreign court has passed an order in favour of either of the parents. A bench of justices V S Sirpurkar and T S Thakur said in a judgement that simply because a foreign court has taken a particular view on any aspect concerning the welfare of the minor is not enough for the courts in this country to shut out an independent consideration of the matter. Objectivity, and not abject surrender, is the mantra in such cases. The apex court passed the judgement while upholding an appeal filed by Ruchi Majoo challenging a Delhi High Court judgement that Indian courts have no jurisdiction under the doctrine of "comity of courts" to entertain any petition if a decree or order has already been passed by any foreign court.

The couple were living with the kid in the US before she returned to India in 2008. A Delhi court had on Ruchi's application granted her custody of the child under the Guardians and Wards Act. The Delhi High Court had, however, struck down the trial court's order and asked the couple to submit themselves to the Californian court as all the three possessed US citizenship.

Aggrieved, the wife appealed in the apex court where she accused her husband of being involved in pornography and adulterous relationship. The husband, while denying the allegations, maintained that Indian courts had no jurisdiction since a decree had already been passed by the Californian court. Rejecting the husband's arguments, the apex court said "recognition of decrees and orders passed by foreign courts remains an eternal dilemma in as much as whenever called upon to do so, courts in this country are bound to determine the validity of such decrees and orders keeping in view the provisions of Section 13 of the Code of Criminal Procedure 1908 as amended by the Amendment Act of 1999 and 2002.