

City of Westminster v IC (By His Litigation Friend the Official Solicitor) and KC and NNC

[2007] EWHC 3096 (Fam)

08/02/2008

Barristers

Alex Verdan KC

Court

High Court

Summary

The vulnerable adult had a severe learning disability, severe global developmental delay, and autism. He had been raised by, and lived with, his Muslim parents, both of whom had originated in Bangladesh. One of his sisters had entered into an arranged marriage, and it was expected that his other siblings would also do so. The vulnerable adult was married in a Moslem ceremony by telephone to a Bangladeshi bride. The local authority did not consider that the vulnerable adult had the capacity to marry.

Facts

The vulnerable adult lacked the capacity to marry, the capacity to consent to sexual relations, and the capacity to consent to circumcision; he had been domiciled in England at the date of his marriage, and while the marriage had, probably, taken place in Bangladesh, it was expected that married life would be lived in England. Although the vulnerable adult had been lawfully married under Sharia law and Bangladeshi law, the marriage would not be recognised in England, because he demonstrably had no mental capacity to consent to the contract of marriage and it would be repugnant to public policy in such circumstances to recognise a ceremony of marriage as valid. The court had no power to regulate the domicile of the vulnerable adult, which was dependent upon that of his father, but did have the power to inhibit removal of the vulnerable adult from the jurisdiction, although it should be cautious before thus inhibiting the enjoyment of family life. Comity was a powerful consideration, but not one that required a court to rein in all further enquiries in appropriate cases. A best interests hearing was to follow.