

**HIGH COURT OF TRIPURA
AGARTALA**

Mat. App. 23 of 2024

Shri Bappi Chaki

.....**Appellant(s)**

Versus

Smt. Kakali Deb (Chaki)

.....**Respondent(s)**

For the Appellant(s) : Mr. S. Mahajan, Advocate.

For the Respondent(s) : Mr. KK Pal, Advocate.

Date of hearing & delivery
of judgment & order : 27.11.2024.

Whether fit for reporting : Yes/No

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT
J U D G M E N T & O R D E R (O R A L)**

[T. Amarnath Goud, J]

Heard Mr. S. Mahajan, learned counsel for appellant-husband. Also heard Mr. KK Pal learned counsel for respondent-wife.

[2] This present appeal is filed under Section 19(1) of the Family Courts Act, 1984 read with section 28 of the Hindu Marriage Act, 1955, assailing the Judgment and Order dated 26.7.2023 passed in T.S (Div) No. 362/2019 by the learned Addl. Judge,

Family Court, Agartala, West Tripura whereby the learned Court below had dismissed the suit filed by the appellant against the respondent seeking dissolution of marriage under section 13(i)(ia)(ib) read with section 12 of the Hindu Marriage Act, 1955.

[3] The case of the appellant in brief, is that he and the respondent-wife got married on 12/05/2012 at Adarsha Para, Amtali, West Tripura as per Hindu rites and customs. Thereafter, the appellant observed that there were some behavioural changes in the daily activities of the respondent. On 15/07/2013, a female child was born from the wedlock and after birth of that child, the parents of the respondent humiliated the appellant and harassed him and took away their daughter and grand daughter to their home. According to the appellant, the respondent is a mental patient and suppressing the same, the family member of the respondent contracted the marriage and they used to keep their daughter in their full control. The appellant is paying monthly maintenance regularly towards his wife and daughter. It is also contended that the appellant filed a suit for restitution of conjugal life and subsequently, by the learned Judge, vide case No. T.S. (RCR) No.191 of 2014 pleaded to reunite the appellant and the respondent ultimately the respondent returned to her matrimonial home on 16.08.2016 and the appellant and the respondent was

residing at a rental accommodation owned by one Rita Deb. But, again the respondent started frequently visiting her parental home and various places without the consent of her husband. It is also contended that on one day, suddenly, the father in-law of the appellant visited the rental house on 16th January, 2017 and took her daughter and grand daughter. From that day, they are living separately. Thereafter, the appellant also filed a suit for divorce and the same was also dismissed on 26.7.2023. Against the said dismissal of divorce, the appellant preferred this appeal.

[4] Mr. S. Mahajan, learned counsel appearing for the appellant submits that a female child was born from the wed-lock with the respondent-wife on 28.07.2013 and thereafter, the father of the respondent took her daughter forcefully from her matrimonial house. It is also contended that the respondent returned to her matrimonial home on 16.08.2016 but, again on 16.01.2017, after returning to his house, the appellant found his wife missing. Thereafter, the owner of the house namely, Smt. Rita Deb disclosed that the father of the respondent has taken away the respondent and grand daughter and handed over the keys of their house to the owner of the house. The respondent-wife has deserted the appellant and since then i.e. for more than a period of 7 years, the appellant-husband and the respondent-wife are living separately.

[5] Mr. Mahajan, learned counsel further contends that learned Court below while considering the case have failed to appreciate the above-mentioned facts and dismissed the petition seeking a decree of divorce by the husband. He, therefore, urges this Court to set aside the judgment and order dated 26.07.2023 passed in T.S.(Div) No.362 of 2019 by the learned Judge, Family Court, Agartala, West Tripura whereby, the learned Court below dismissed the petition filed by the appellant herein and to allow divorce as prayed for before the learned Court below.

[6] On the other hand, Mr. KK Pal, learned counsel appearing for the respondent submits that due to mental and physical torture on the part of the appellant, the respondent-wife had left her matrimonial home. However, it is admitted that no complaint was ever lodged against the appellant for that torture. Learned counsel for the respondent submits that since, the appellant is a government employee drawing a salary of around Rs.40,000/- and the respondent has her minor daughter, for their future, it would be appropriate if the case is settled with cost of Rs.20 lakhs as permanent alimony to the respondent-wife and her daughter to be awarded by the appellant-husband.

[7] Heard learned counsel for the respective parties. Perused the evidence on record.

[8] Both the parties are present today. During the course of argument, it is contended on behalf of the appellant-husband that he is a simple employee and working at Pragya Bhavan, Agartala and paying maintenance to the respondent-wife and daughter from time to time. The appellant-husband has also placed before this Court his Pay Slip for the month of July, 2024 showing his total salary as Rs.38,813/- and his designation as Jr. Care Taker. It is admitted by the respondent-wife that she is living separately from her husband for 7/8 years.

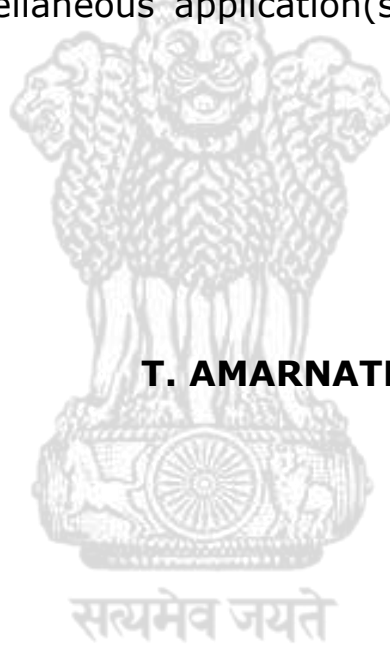
[9] In view of the above discussions, this Court is of the view that since the respondent-wife is frequently living separately from her husband for several years and on earlier occasion too, the learned court below mitigated the dispute between the parties and reunited them but again, she left her matrimonial house for more than seven years, ends of justice would be met, if the decree of divorce is granted to the appellant herein. Thus, having considered the future of the minor daughter and the respondent, this Court awards one time settlement of Rs.10,00,000/- (rupees ten lakhs) to be paid by the appellant-husband to the respondent and the minor daughter. The entire amount of Rs.10 lakhs shall be paid by the appellant-husband within three months from today with three equal

instalments. Resultantly, the marriage between the parties is dissolved.

With the above observation and direction, the instant appeal is allowed and accordingly, the same is disposed of. The personal appearance of the parties is dispensed with and the impugned order dated 26.7.2023 passed by the learned Court below is set aside. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

B. PALIT, J

T. AMARNATH GOUD, J



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