

GAHC010051672024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP(IO)/99/2024

PRANITA KALITA
D/O- BHUPESH CHANDRA KALITA, RESIDENT OF JHARNAPAR PATH,
LICHUBAGAN, HENGRABARI, P.S. DISPUR, P.O. HENGRABARI,
GUWAHATI-36, ASSAM

VERSUS

NAYAN MONI BAISHYA
S/O- DWIJENDRA NATH BAISHYA, WARD NO. 12, SHANTI NIWAS KHAT,
BATIRAM ROAD, P.O. AND P.S. NALBARI, ASSAM- 781335

For the Petitioner(s) : Mr. S. P. Das, Advocate

For the Respondent(s) : None appears.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 13.03.2024

1. This is an application filed under Article 227 of the Constitution challenging the order dated 22.12.2023 whereby a petition being Petition No.853/2023 filed by the Petitioner herein was rejected.

2. It appears from the records that the Petitioner herein had instituted a divorce proceedings being F.C.(Civil) Case No.1266/2022 before the Court of the Principal Judge, Family Court No.II, Kamrup (M), Guwahati on the ground of cruelty. The Respondent who is the husband duly appeared in the said proceedings and filed the written statement along with counter claim. In the said counter claim, the Respondent also sought for a decree for divorce.

3. Pursuant thereto, the Petitioner herein filed an application which was registered and numbered as Petition No.853/2023 stating inter alia that as the Petitioner as well as the Respondent have both sought for divorce, the Court in order to save valuable time should grant the divorce. The learned Trial Court vide the order dated 22.12.2023 had rejected the said application on the ground that as both the Petitioner and the Respondent have not invoked the provisions of Section 13B of the Hindu Marriage Act, 1955, the said application was not maintainable. The said order has been put to challenge before this Court under Article 227 of the Constitution.

4. This Court upon perusal of the impugned order dated 22.12.2023 as well as the provisions of Section 13B of the Hindu Marriage Act, 1955 finds no infirmity in the said order for which the question of interfering with the said impugned order dated 22.12.2023 does not arise.

5. Accordingly, the instant petition being without any merit stands dismissed.

JUDGE

Comparing Assistant