

GAHC010195282024



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

Case No. : CRP(IO)/394/2024

SMT. BISHTI MONI BORA
W/O- MADHAB SAIKIA, D/O TARUN BORAH, R/O- PANIKHATI, DEURI
GAON, P.O. BIHORIGAON, P.S. NAGAON SADAR, DIST. NAGAON, ASSAM

VERSUS

MADHAB SAIKIA
S/O- LATE UMARAM SAIKIA, R/O- BIHARIGAON, KAHALIGAON
(DHENUCHUCHA), P.S. NAGAON SADAR, DIST. NAGAON, ASSAM

Advocate for the Petitioner : MR. S P CHOUDHURY, MR K BISWAKARMA, MS B DEVI, MS. M BORA

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 27.09.2024

Heard Mr. S.P. Choudhury, learned counsel for the petitioner.

2. In this petition, under Article 227 of the Constitution of India, the petitioner has put to challenge the correctness or otherwise of the orders dated 11.07.2024 and 06.08.2024, passed by the learned Additional District Judge No.

3, Nagaon, in Matrimonial (D) Case No. 75/2019.

3. It is to be noted here that vide impugned order dated 11.07.2024, the learned trial Court had allowed the respondent to file written statement on 06.08.2024 and consequently, allowed the Petition No. 1823/2024, for the last time, and thereafter, vide order dated 06.08.2024, the learned trial Court had accepted the written statement submitted by the respondent and also dismissed the Petition No. 1828/2024, under Section 151 of the CPC for grant of divorce.

4. Mr. Choudhury, learned counsel for the petitioner submits that the learned trial Court had accepted the written statement filed by the respondent herein at a belated stage and without sufficient ground being shown for the delay and that at the relevant time, the respondent was not suffering from mental illness and the belated filing of the written statement is not acceptable and therefore, it is contended to allow the petition.

5. Having heard the submission of Mr. Choudhury, learned counsel for the petitioner, I have carefully gone through the petition and the documents placed on record and also perused the impugned orders dated 11.07.2024 and 06.08.2024.

6. It appears that vide order dated 11.07.2024, the learned trial Court had allowed the petition, being Petition No. 1823/2024, filed by the respondent to file written statement citing cause of absence of the respondent/defendant and vide order dated 06.08.2024, the learned trial Court had accepted the written statement filed by the respondent and dismissed the Petition No. 1828/2024, filed by the petitioner for grant of divorce.

7. Having examined the order dated 11.07.2024, I find that the said date was fixed for submitting written statement and on account of failing to file written statement on that day, a ground was assigned vide Petition No. 1823/2024, and

as such, assigning a fresh ground on 06.08.2024, to my considered opinion, is found to be not necessary.

8. It also appears that the learned trial Court after accepting the written statement, had refused to grant divorce on the Petition No. 1828/2024, filed under Section 151 of the CPC.

9. Having considered the submission of Mr. Choudhury, learned counsel for the petitioner and also examining the impugned orders in the light of the facts and circumstances on the record, this Court finds no merit in this petition and accordingly, the same stands dismissed as no infirmity or impropriety is found to be committed by the learned trial Court in accepting the written statement. The learned trial Court had found that at that stage, granting of divorce was not justified. And that too rightly so as at that stage divorce cannot be granted on the ground of irretrievable breakdown. And on such count, rejecting the petition for grant of divorce appears to be justified and reasonable.

10. In the result, I find no merit in this petition and accordingly, the same stands dismissed.

11. In terms of above, this revision petition stands disposed of, at this motion stage itself.

JUDGE

Comparing Assistant