

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.776 of 2012

=====

Anand Prakash Mahajan, S/O Krishna Kumar Mahajan, Aged about 40 years,
Resident of Mohalla – Keshopur, Jamalpur, P.S. – Jamalpur, District - Munger

.... Appellant/s

Versus

1. Smt. Asha Kumari, D/O Sri Yadunandan Sah (W/O Sri Anand Prakash Mahajan) Aged about Years, Resident at present Quarter No. -14/2-1, Road No. 4, P.O. – Adityapur, P.S. – Jamsedpur, District Jamsedpur (Jharkhand)

2. Sarjun Prasad Gupta, S/O Moti Prasad Gupta, Resident of Mohalla – Kurji (Near Loyal School), P.S. Patliputra, District Patna

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. B.N.P. Singh, Advocate
Mr. Shivjee Pandey, Advocate

For the Respondent/s : None.

=====

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 30-03-2015

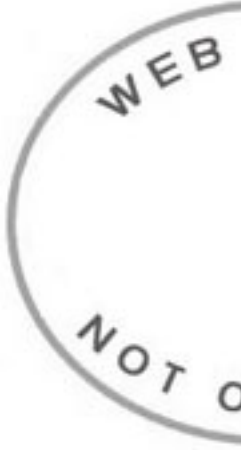
Heard learned counsel for the appellant.

2. Appellant is the husband. He has assailed the impugned judgment and order dated 24.07.2012 passed by Principal Judge, Family Court, Munger in Title Suit (Matrimonial) No. 01 of 2005 whereunder request of the husband to dissolve his marriage with Respondent no.1 on the ground of her being in adulterous relationship with Respondent no.2, her brother-in-law (sister's husband) has been rejected in the light of the evidence of the appellant husband, P.W.1, Wife R.W.3 as also Respondent no.2.

Earlier both wife, Respondent no.1 and Respondent no.2 filed their separate written statement denying the allegations, in support of the contention both examined themselves as witness.

3. It appears, Sarjun Prasad Gupta, Respondent no. 2 is the brother-in-law of Respondent no.1 and he has categorically stated in his evidence that the allegations levelled against him by the husband- appellant is wholly incorrect as he never brought Respondent no.1-wife to his house nor she ever came to his house along with her husband and the entire story set forth by the appellant in his petition and evidence is wholly false.

4. The court below having considered the evidence of the parties as also the assertion of the wife, Respondent No. 1 that she is ready and willing to subject herself and the girl child born to her on 27.12.2002 to DNA examination in order to establish that the girl child is the daughter of appellant, has found not only the allegations of adultery to be false but also found that Respondent no.1-wife desired to resume the matrimonial relationship with the appellant-husband, yet the husband did not choose to resume the matrimonial relationship with his wife and take



her back in the matrimonial fold for failure of her father not to transfer his Jamshedpur house in the name of the appellant.

5. In the circumstances, we are not inclined to condone the delay in filing the appeal. Limitation petition, bearing I.A. No. 6634 of 2014 is, accordingly, dismissed.

6. Having not condoned the delay in filing the appeal, the appeal is consequently dismissed.

(V.N. Sinha, J.)

(Vikash Jain, J.)

Arjun/-

U		T	
---	--	---	--