

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No. 570 of 2013

=====

Smt. Babita Devi Wife of Sri Shivshankar Bhartee resident of Village- Bhawanipur,
P.S. Naugachia, District- Bhagalpur and daughter of Sri Janardan Poddar, resident
of Village- Puraini Bazar, P.S. Chausa, District- Madhepura.

.... Respondent/s / Appellant/s

Versus

Sri Shiv Shankar Bharti S/O Late Shukdeo Poddar resident of Village- Bhawanipur,
P.S. Naugachia, District- Bhagalpur.

.... Appellant/s / Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Kamal Kishore Singh, Advocate.

For the Respondent/s : Mr. Radha Mohan Pathak &
Mr. Vishwajeet Kumar Mishra, Advocates.

=====

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

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

Date: 10-02-2015

Heard learned counsel for the appellant-wife and
the counsel for the respondent-husband.

2. It appears that matrimonial case filed by the
husband was earlier dismissed for default and the order
dismissing the same on default was set aside by a Division Bench
of this Court under order dated 08.08.2008 passed in
Miscellaneous Appeal No. 85 of 2006 and original Matrimonial
Case No. 27 of 2003 was restored to its original file and number.
By the impugned order aforesaid matrimonial case has been
allowed dissolving the marriage of the appellant with her husband
ex parte as after 08.08.2008 before she could appear in the Court
below the said matrimonial case was allowed under judgment
dated 25.02.2012.

3. With the consent of the parties, the appeal is heard and finally disposed off as we are of the view that opportunity of being heard has not been provided to the appellant-wife. In the circumstances, we set aside the judgment dated 25.02.2012 passed in Matrimonial Case No. 27 of 2003 with direction to both the appellant-wife and respondent-husband to appear in the Court below i.e., in the Court of Principal Judge, Family Court, Bhagalpur on 02.03.2015, whereafter the Principal Judge shall proceed with the matter by fixing a date in the matter permitting the wife not only to cross examine the husband as also the other witnesses produced on his behalf but also allow her to lead evidence. The proceeding must be conducted on day to day basis and concluded as early as possible in any case within three months from the date of their first appearance in light of this order.

(V.N. Sinha, J.)

(Ahsanuddin Amanullah, J.)

P. Kumar

U			
---	--	--	--