

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.214 of 2013

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Smt. Nidhi Kumari W/O Sashishekhar and D/O Sri Om Prakash Singh Resident Of
Mohalla- Chitragupta Puri, Maripur, P.S- Kazimahammadpur, District-
Muzaffarpur.

.... Appellant/s

Versus

1. Sashi Sekhar S/O Sri Ramagya Singh Resident Of Mohalla- Saketpuri Road No.
1, Bibiganj, P.S- Sadar, District- Muzaffarpur.
2. Raju Singh S/o unknown r/o village + P.S. + Dist. – unknown.

.... Respondent/s

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Appearance :

For the Appellant/s : None

For the Respondent/s : Mr. Naresh Chandra Verma, Advocate
Mr. Natraj Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

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

Date: 29-06-2015

None appears for the appellant. Same was the position on 24, 26.06.2015 when we passed over the matter for the day so as to enable the appellant-wife and her counsel to press the appeal. Even today, none is appearing to press the appeal. In the circumstances, we have perused the impugned judgment dated 04.02.2013 passed by Principal Judge, Family Court, Muzaffarpur in Matrimonial Case No. 57 of 2012 with the assistance of the counsel for Respondent no.1-husband.

2. By filing this appeal, appellant-wife has chosen to assail the impugned judgment on the ground that the same was

passed ex parte. Counsel for Respondent no.1, however, informs us that the impugned judgment was passed without the assistance of the counsel for the wife as learned counsel for the wife chose not to appear in the proceeding taken by the learned Principal Judge, Family Court as she never wanted to furnish blood sample for DNA test so that paternity of her child with cohabitation of Raju Singh opposite party no.2 may be confirmed.

3. It is submitted by the counsel for Respondent no.1 that having filed this appeal, counsel for the appellant persuaded this Court under order dated 09.04.2015 to issue notice on the ground that the impugned order has been passed in absence of the wife and she wishes to contest the claim of her husband for divorce.

4. Appreciating such submission, we issued notice to the respondent-husband, but after his appearance and service of copy of the counter affidavit, counsel for the wife has again resorted to the same tactics which was earlier resorted by her in the court below as there also she appeared through counsel but later disappeared from appearing in the court proceeding.

5. Having taken note of the aforesaid fact, we have no option, but to dismiss the appeal, which is, accordingly,

dismissed.

6. Counsel for the Respondent No.1 also informs us that Respondent no.1 has already married for the second time with Rinku Kumari daughter of late Laxmi Narain Singh, resident of village Kewatsa, P.S. Gaighat, District Muzaffarpur on 13.05.2013.

(V.N. Sinha, J.)

(Nilu Agrawal, J.)

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