

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.696 of 2009

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Aparna Chaudhary @ Dolly, wife of Sri Dhanajjay Kumar Chaudhary, D/o Sri Akhileshwar Mishra, presently residing at House No. 26, Road No. 8, East Patel Nagar, P.S. Shastry Nagar, Patna

.... Opposite Party-Appellant

Versus

Dhananjay Kumar Chaudhary, son of Late Daya Shanker Chaudhary, resident of Village Pindaruch, P.S. Kamtaul, District Dharbhanga

.... Petitioner-Respondent

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Appearance :

For the Appellant/s : Mr. Tara Nath Jha, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

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

Date: 06-02-2015

Heard Sri Tara Nath Jha, learned counsel for the appellant-wife. None appears for the respondent-husband in spite of service of notice on him.

2. Perused the judgment of the court below dated 10.03.2008 wherefrom it appears that in the light of the pleadings of the parties three issues were framed by the court below. Issue no. 1 is about the wife suffering from mental disease, has been answered in negative as the court below having perused the certificate of Dr. Narendra Pratap Singh, Neuro Psychiatric, P.M.C.H., Patna concluded that appellant may be abnormal but not suffering from mental disease. So far issue nos. 2, 3 about the wife having deserted the husband is concerned, the same has been discussed with reference to the events taking place in the matrimonial life of the parties after their marriage

on 24.02.1999 and the litigations instituted between them including case under Section 498 of the Indian Penal Code as also earlier proceeding for divorce.

3. Having discussed the aforesaid relevant aspects in Paragraphs 8 to 10 court below has held that issue nos. 2, 3 are decided in favour of husband holding the appellant entitled to alimony of Rs. 3 lakhs in one lump sum and further amount of Rs. 1 lac for the proper education of the minor son with interest @ 12 per cent per annum. From Paragraph 10 of the judgment, it is evident that during conciliation proceeding parties were adamant to live separately. Husband being a Class-III employee the amount of alimony also appears to be justified.

4. Notwithstanding the decree of divorce the son of the appellant and respondent will not be precluded from claiming his rights in the properties of his father Dhananjay Kumar Chaudhary (respondent) as per Hindu Succession Act. For further education of his son born to appellant respondent should pay Rs. 2,000/- per month to the wife until the son pursues his studies.

5. Appeal stands disposed of in the aforesaid terms.

(V.N. Sinha, J.)

(Ahsanuddin Amanullah, J.)

Rajesh/-

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