

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.979 of 2011

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Ram Prakash Singh, S/O Rajnandan Singh, R/O Village - Mirjapur, P.O. Doshna,
P.S. Aurangabad (M) District - Aurangabad

.... Appellant/s

Versus

Usha Devi, D/O Kailash Singh, R/O Village - Bhuapur, P.O. Kara, P.S. Jamhore,
District - Aurangabad

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Birendra Kumar Singh, Advocate
 Mr. Arun Kumar Singh, Advocate

For the Respondent/s : Mr.

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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: 25-06-2015

Heard learned counsel for the appellant. None appears for the respondent though respondent has appeared through counsel by filing Vakalatnama.

2. Appellant-husband has filed this appeal assailing the judgment dated 25.10.2011, passed by Principal Judge, Family Court, Aurangabad, in Matrimonial Case No. 20 of 2008 whereunder request of the appellant-husband to dissolve his marriage with respondent-wife has been refused holding that none of the grounds raised in support of the petition for divorce i.e. cruelty and desertion is made out. In this connection, the court below has considered the plea of cruelty raised by the appellant-husband in paragraph 6 onwards with reference to the evidence of the parties and concluded that the

instances put forth by the appellant-husband do not make out a case of cruelty against the wife.

3. The other aspect of desertion has also been considered by the court below in paragraph 19 and it has been held that the petition for divorce having been filed on 17.04.2008 though desertion is alleged from the beginning of 2008, as such, appellant-husband was not well advised to raise the plea of desertion. In this connection, court below observed that from the pleadings made on behalf of the husband, it is evident that prior to 2008 wife was intermittently going to her father's house but was coming back, as such, the period prior to 2008 cannot be counted for calculating the period of two years for making out the ground of desertion.

4. We see no merit in the appeal, which is dismissed. Learned court below has directed the husband under order of the same day in Maintenance Case No. 14 of 2009 to pay maintenance of Rs. 4,000/- per month to the wife, which the appellant should regularly pay, failing which the court below will resort to all coercive means at its command to ensure that the wife is provided with the required maintenance.

(V.N. Sinha, J)

(Nilu Agrawal, J)

Rajesh/-

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