

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.36 of 2011

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Manjari Begum @ Manjhari Begum, wife of Md. Mustak daughter of Md. Ainul Haque, resident of village – Simara Chikani Tola, P.S. – Piar, District - Muzaffarpur

.... Appellant/s

Versus

Md. Mustak, son of Md. Yusuf, resident of village – Simara, P.S. Piar, District - Muzaffarpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajeev Ranjan, Advocate
Mrs. Bela Singh, Advocate

For the Respondent/s : None

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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: 03-07-2015

Heard learned counsel for the appellant-wife. None appears for the respondent-husband though notice has been validly served on him.

2. Appellant-wife has challenged the order dated 18.07.2009 passed by Principal Judge, Family Court, Muzaffarpur in Divorce Case No. 103 of 2007 whereunder the marriage of the appellant with the respondent has been dissolved ex parte.

3. From the averments made in the memorandum of appeal, we are satisfied that appellant was prevented by sufficient cause in not appearing before the court below and the ex parte order dated 18.07.2009 is required to be set aside, which is, accordingly, set

aside directing the appellant-wife to appear in the court below along with a copy of this order whereafter fresh notice be issued to the husband directing him to once again produce his witnesses so that wife may cross-examine them and after completion of the deposition of the husband, wife should produce her witnesses and the hearing of the divorce case should come to an end within three months from the date of appearance of the husband.

4. Parties are directed not to take unnecessary adjournment and the proceedings be continued on day to day basis. During the pendency of the divorce case, the court below shall consider the desirability to direct the husband to pay interim maintenance to the appellant-wife.

5. The appeal is, accordingly, allowed.

(V.N. Sinha, J.)

(Nilu Agrawal, J.)

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