

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.421 of 2011

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Subhash Chandra Sutradhar son of late Nagendra Nath Sutradhar, resident of Village Bastaul, P.S. Pranpur, District Katihar, at present residing of Galgaliya Bazar, P.S. Galgaliya, District Kishangaj,

.... Appellant- (Petitioner)

Versus

1. Smt. Neera Sinha wife of Sri Subhas Chandra Sutradhar, D/o Sri Ashwani Kumar Sinha, resident of Village Petbhari, P.O. Powakhali, P.S. Powakhali, District Kishanganj.
2. Umakat Sinha, son of Rajendra Prasad Sinha, resident of Villiage Galgaliya, P.O. and P.S. Galgaliya, District Kishanganj

.... Respondent-Opposite Parties

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Appearance :

For the Appellant : Mr. Shrawan Kumar, Sr. Advocate with
Mr. Bhola Prasad, Advocate

For the Respondents : Mr. Bajarangi Lal and
Mr. A. K. Ghose, Advocates

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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: 16-02-2015

Heard learned counsel for the parties.

2. This Appeal assailing the judgment dated 24th March, 2011 passed by the Principal Judge, Family Court, Purnia in Matrimonial Suit No. 11 of 1195 by the appellant whereunder his request for judicial separation on the ground of adultery, desertion and cruelty under Section 13 (1) (i) (i-a) (i-b) of the Hindu Marriage Act, 1955 (hereinafter referred to as the 'Act') has been rejected.

3. It appears initially the appellant filed a petition under Sections 13 and 26 of the Act for divorce on the ground of adultery and custody of the girl child. Later the ground of desertion was also inserted. The Family Court has considered the case of the parties which is evident from paragraph-2 onwards and found that the allegation of adultery levelled against the wife is wholly untrue and has been discussed in paragraphs no. 18, 19, 20, 21, 22, 23, 24, 25, 26 and concluded in paragraph - 27 of the judgment that husband continued with his marital relationship with respondent wife and girl child was born to the parties in 1995 though the allegation of adultery with Umakant Sinha is raised against the wife from 1993. In the circumstances, the Family Court has rightly concluded that husband has condoned the conduct of his wife. The other allegation of cruelty by the wife has also been discussed in paragraphs no. 16 and 17 of the judgment and held that the said ground is also not made out.

4. In the circumstances, we are satisfied that the

impugned judgment does not require any interference by us.

5. The Appeal is dismissed.

(V.N. Sinha, J)

(Ahsanuddin Amanullah, J)

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