

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No. 819 of 2011

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Md. Arshad Ali @ Arshad Ali S/O Late Ali Imam R/O Village - Ram Kishanpur,
P.S. Samastipur (M), District - Samastipur

.... Applicant Appellant

Versus

Amna Jabeen D/O Late Syed Md. Sarwar Sahab R/O Village - Lakhminiya, P.S.
Balua, Distric Begusarai

.... Opposite Party.... Respondent

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Appearance :

For the Appellant/s :

For the Respondent/s :

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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: 02-02-2015

Heard learned counsel for the parties.

2. Husband of the sole opposite party is the appellant herein. He has challenged the order dated 30th July, 2011 passed by Principal Judge, Family Court, Samastipur in Divorce Case No. 117 of 2007 wherein it has been held that the grounds raised to seek

divorce that opposite party is not a woman and is an eunuch has no basis as the opposite party is a woman and not an eunuch and such finding has been recorded by the court below after she was medically examined. The challenge raised to the medical report holding opposite party to be a woman was also not pressed before the court below. Learned counsel for the appellant admitted such fact in course of his submission. In the light of the evidence of the parties it has been held that she is fully competent for discharging her obligation as a wife.

3. In view of the finding recorded by the court below in the light of the ocular evidence as also the medical evidence, we have no reason to interfere with the impugned judgment. The Appeal is dismissed.

(V.N. Sinha, J)

(Ahsanuddin Amanullah, J)

Anjani/-

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