

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No. 216 of 2011

=====

Shubh Nath Ram, Son of Bishwanath Ram, Resident of Village- Lauwa, Post Office- Sardhwara, Police Station- Ishuapur, District- Saran.

.... Petitioner / Appellant

Versus

Smt. Manju Devi, Wife of Shubh Nath Ram, Daughter of Ram Nath Ram, Resident of Shankar Para, Supaila, Post Office- Ramnagar, Police Station- Supaila Bhilai, District- Durg (Chhatisgarh) .

.... Respondent /Respondent

=====

Appearance :

For the Appellant : Ms. Sangeeta Sharma, Advocate

For the Respondent : Mr. Harshvardhan Sahay, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

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

Date: 11-03-2015

Husband is the appellant. He has assailed the judgment and order dated 02.02.2011 passed by the Principal Judge, Family Court, Saran at Chapra in Divorce Case No. 11 of 2008, whereunder petition filed under Section 13 of the Hindu Marriage Act for dissolution of marriage with the sole-respondent has been dismissed ex-parte without cost.

2. From perusal of the impugned judgment, it appears that appellant-husband has applied for divorce on the ground of cruelty by asserting that after giving birth to a female child respondent deserted him, though he tried several time to

bring her back. Respondent-wife has filed written statement and has accepted the circumstances in which she had come back to her parental home. Learned Principal Judge has considered the case of the parties in the light of the pleadings made by them and evidence led on behalf of the appellant in paragraphs no. 10 and 11 and has found that the circumstances in which wife had to leave her matrimonial home does not constitute desertion by her.

3. In this connection, learned Court below has considered the evidence led on behalf of the husband i.e. P.Ws. 1, 2, 3 and 4 and concluded that the circumstances in which the wife came back to her parental home does not constitute desertion.

4. We see no reason to take a different view in the matter, the appeal is dismissed.

5. During the hearing of the appeal the appellant-husband and his father were present along with their learned counsel Ms. Sangeeta Sharma. The respondent-wife along with her father and younger brother is also present with counsel Mr. Harshvardhan Sahay.

6. The respondent-wife with her daughter is presently residing at the parental home in Durg (Chhatisgarh). She has accepted that the appellant- husband will have visitation right to meet the daughter in park or some other places but not at her parental home. The meeting with the daughter shall be fixed with prior appointment at least a week in advance through mobile

phone. The wife and the family members will not create any hindrance to the appellant approaching the daughter to meet her in the park outside the parental home. The meeting between father and the daughter shall be at least for one hour.

(V.N. Sinha, J.)

(Ahsanuddin Amanullah, J.)

Anand Kr.

U			
---	--	--	--