

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.351 of 2010

Subita Devi @ Subita Kumari, wife of Sujit Kumar D/o Sri Radhey Shyam Gupta,
resident of village Khaira, P.O. – Khaira, P.S. Khaira, District Jamui

.... Respondent first party/Appellant

Versus

1. Sujit Kumar, Son of Sri Banarsi Sah, resident of village & Post – Lohchi (Laliadih), P.S. – Haveli Kharagpur, District Munger
2. Parimal Bharti son of Sri Uday Shankar Gupta @ Balo Babu, resident of Surajgarha, P.S. – Surajgarha, District – Lakhisarai at present Tungbhadra Building No. 21 Anushakti Nagar, Mumbai – 94
3. Bishwajit Gupta @ Chunna son of Mohan Sah, resident of Gogri Jamalpur, P.S. – Gogri Jamalpur, District - Khagaria

.... Respondent/ 2nd parties/Respondent/ 2nd parties

Appearance :

For the Appellant/s : Mr. S.P. Parasar, Advocate

For the Respondent No.1 : Mr. Rana Vikram Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

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

Date: 14-04-2015

In the light of our order dated 13.04.2015, appellant is present along with her son, younger brother. Respondent no.1, Sujit Kumar has also appeared. We have spoken to each of them. Appellant is, however, not willing to join the matrimonial home with Respondent no.1 though Respondent no.1 withdrew all the allegations levelled against her and Respondent no.2. Respondent no.1 further stated that though his wife- appellant has not agreed to join the matrimonial home still he is ready to provide above the maintenance amount, Educational expenses admissible under the Bhabha Atomic Research Centre, Mumbai (hereinafter referred to as BARC) Rules to

his son, Prashant Kumar.

2. Let Establishment-III of BARC ensure payment of admissible educational expenses to the son of Respondent no.1 by making necessary deposit in his bank account or in the account of the child maintained in the school. Appellant, the mother is called upon to open a bank account of her minor son, Prashant Kumar and intimate the Bank/ School account number to Respondent no.1 so that the admissible amount of educational expenses be credited in the bank/ school account of the minor son, Prashant Kumar.

3. Let Establishment-III of BARC also ensure payment of the arrears of the educational expenses to Prashant Kumar, son of Respondent no.1. Even after the allegations levelled by Respondent no.1 against appellant have been withdrawn, the parties have not agreed to join the matrimonial home. In the circumstances, while disposing of the appeal, we maintain the decree of divorce passed against the appellant under judgment and decree dated 27.03.2010 passed by Principal Judge, Family Court, Jamui in Matrimonial Case No. 121 of 2005. Respondent no.1 shall pay 50% of his net pay as revised from time to time for the benefit of the appellant and the minor son in the bank account of the appellant, bearing Savings Bank Account No. 2944101002018, IFSC Code – PNRB0002944 of Canara Bank, Jamui Branch. In lieu of such payment, appellant has agreed

not to pursue Complaint Case No. 955 of 2006 pending in the Court of S.D.J.M., Jamui, Mumbai (Trombay) P.S. Case No. 59 dated 23.02.2006 pending in the Court of Metropolitan Magistrate, Kurla Court, Mumbai and Maintenance Case No. 170M/2014 pending in the Court of Principal Judge, Family Court, Jamui, which are, accordingly, quashed.

4. We have increased the maintenance amount so that the minor son of the parties is allowed education in a boarding school, may be Central School or Ram Krishna Mission School or any other good Public school from Session 2015-16 itself.

5. Maintenance amount i.e. 50% of the Net pay of Respondent no.1 shall be debited by the Accounts Division from his Pay-slip from the month of April, 2015 and credited in the aforesaid bank account of the appellant. Respondent no.1 undertakes that after BARC Society loan in which he is paying instalment of Rs. 15,655/- per month is liquidated, he shall not take any loan from BARC Society. Respondent no.1 also undertakes that after House Building Advance in which he is paying instalment of Rs. 2,023/- per month is liquidated, he shall also not take any House Building Advance or any other personal loan. Appellant shall also be entitled for revision of the maintenance amount as and when the gross entitlement payable to Respondent no.1 is revised from time to time and shall receive 50% of

the revised entitlement. As and when any arrear is paid to Respondent no.1, appellant shall also be entitled for payment of 50% of the arrear amount. Appellant shall also be entitled to get 50% amount of the retiral dues payable to Respondent no.1.

6. Appellant has agreed to allow Respondent no.1 to speak to his son on every Sunday on mobile phone with speaker on. Respondent no.1 shall also be at liberty to visit his minor son in the school and meet him in presence of the Principal of the school. In case Principal of the school and the minor son feel confident about the behaviour of Respondent no.1, Principal of the school may permit Respondent no.1 to take his son for short-outings.

7. If any of the terms of this order is violated, the party concerned shall be at liberty to file interlocutory application in this appeal itself bringing such violation to the notice of this Court.

8. The appeal stands disposed of in the aforesaid terms.

9. Let a copy of this order be communicated to Incharge Establishment-III, BARC, Mumbai through FAX for ensuring its compliance.

(V.N. Sinha, J.)

(Anjana Mishra, J.)

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