

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.719 of 2013

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Priyanka Rani @ Priyanka Abhishek W/O Abhishek Barnwal, D/O Late Cyril Michael, Resident of Church Road, Christian Quarters, P.O. Bettiah, P.S. Bettiah, District Bettiah.

.... Appellant

Versus

Abhishek Barnwal son of Mr. Braj Mohan Prasad of New Colony, Khiriya Ghat, P.S. Bairaia, District West Champaran.

.... Respondent

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Appearance :

For the Appellant/s : Mr. Saket Tiwary, Advocate

For the Respondent/s : Mr. Jitendra Prasad Singh, Advocate

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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: 01-07-2015

This appeal is filed by the wife assailing the impugned judgment dated 24.08.2013 passed by Principal Judge, Family Court, West Champaran at Bettiah in Divorce Case No. 101 of 2012 whereunder suit for divorce has been allowed dissolving the marriage of the appellant with the respondent.

2. The appeal is barred by limitation, but having heard counsel for the parties, we are satisfied that the delay caused in filing the appeal was not deliberate, as such, the same is condoned.

3. I.A. No. 3626 of 2015 is, accordingly, allowed.

4. Having condoned the delay in filing the appeal, with the consent of the counsel for the appellant and the counsel for the respondent as also the respondent and his parents, who are present before this Court, we pass this order.

5. It is agreed by the respondent and his parents that in lieu of dissolution of marriage, by way of final settlement of the matrimonial dispute as also to guard the interest of the child, Priyansh borne out of the wedlock, respondent and his parents shall pay Rs. 5,00,000/- (Five lacs), out of which Rs. 2,50,000/- (two lacs fifty thousand) shall be paid by 25th July, 2015 through demand draft drawn in the name of Priyansh under the legal guardianship of his mother, Priyanka Rani Osta @ Priyanka Abhishek. The balance amount of Rs. 2,50,000/- (two lacs fifty thousand) shall be paid by 25th July, 2016. Failure to pay such amount shall tantamount to violation of the orders of this Court and it shall be open for the appellant to approach Principal Judge, Family Court, West Champaran at Bettiah and bring to his notice the violation of the orders of this Court whereafter the Principal Judge shall take all coercive measures for ensuring payment of the amount or refer the matter to this Court for initiation of contempt proceedings against the respondent. In case the proceedings are delayed, it shall also be



open for the appellant to directly file interlocutory application in these proceedings itself, which shall be considered by one of us forming Division Bench with another Judge of this Court. The demand draft of Rs. 2,50,000/- (two lacs fifty thousand) drawn in the name of Priyansh under the guardianship of the appellant be handed over to the appellant by visiting her house. In the event, there is any difficulty in making payment at the house of the appellant, respondent shall appear before the Principal Judge, who shall call the appellant and in presence of Principal Judge, the demand draft shall be handed over to the appellant. After receipt of the demand draft appellant shall open a term deposit account in the State Bank of India in the name of her son under her guardianship and deposit the amount in the said account and the interest earned on the amount shall be deposited in the same account so that the same shall also become part of the deposit.

6. The amount shall be utilized for meeting out the educational and other needs of the child after he is admitted in the boarding school of the level of Central School or of higher standard. At the time of the admission of the child in a non-boarding school at Bettiah as also in boarding school at Bettiah or outside, respondent has to be present in order to sign the

school register as father of the child for which purpose appellant will inform the respondent to accompany her and the child to the school.

7. In case, the amount is required to be withdrawn even prior to the admission of the child in the Central, Boarding school, the appellant shall make an application before the Principal Judge, who will assess the needs and permit withdrawal of the amount provided the need is reasonable. After the child is admitted in the boarding school and the monthly interest earned from the amount is not enough to take care of his educational needs, the bill for the remaining amount shall be forwarded to the respondent-father of the child by the school who will make necessary payment of course in the account of the school.

8. It goes without saying that the son of the appellant will have interest in the movable/ immovable property of his father, respondent herein.

9. In case, there is any violation of the terms of this order by any of the parties, it shall be open for the other party to bring the same to the notice of the Principal Judge, who shall take remedial measure and if he is unable to resolve the issue then make a reference for contempt as stated above.

10. In the light of the aforesaid agreed terms, the appeal is disposed of and the impugned judgment and decree is affirmed.

(V.N. Sinha, J.)

(Nilu Agrawal, J.)

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