

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.460 of 2013

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Anjoo Devi, Wife of Shri Lakindra Rai and Daughter of Shri Ram Bilas Rai,
Presently residing at Village- Mishrauliya, Naya Tola, P.S. Jandaha, District-
Vaishali

.... Appellant

Versus

Lakhendra Rai, Son of Shri Raj Narayan Rai, Resident of Village- Susta Madhopur,
P.S. Muzaffarpur, District- Muzaffarpur

.... Respondent

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Appearance :

For the Appellant : Mr. Shrinandan Prasad Singh, Advocate.
Mr. Surendra Prasad Singh, Advocate.

For the Respondent : Mr. Vijay Kumar Singh, Advocate.
Mr. Pankaj Kumar 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: 10-07-2015

Heard learned counsel for the
appellant and the State.

2. Wife is the appellant. She has
challenged judgment dated 28.05.2013 passed by
Principal Judge, Family Court, Muzaffarpur in
Matrimonial Case No. 1/2012, whereunder court
below had dissolved her marriage with the sole
respondent. Perusal of the order indicates that the
same was passed ex parte by duping the wife after
she had agreed to the request of the court to come
back to the matrimonial fold and not to pursue the

earlier case, whereafter the present case was filed and ex-parte order obtained. The earlier case is even pending today, so submitted learned counsel for the appellant, as such, we are satisfied that this order was obtained by practicing fraud not only on the wife but also on the court. However, we are not taking any action as husband has appeared before us and agreed in presence of his father-in-law that he shall again take back the wife in matrimonial fold.

3. Accordingly, the impugned judgment is set aside, however, with observation that if in future any matrimonial dispute arises, the wife shall not only take appropriate action in accordance with law but also request the Family Court to file a complaint against the husband for duping her not to appear in the present case and persuaded the court to pass ex parte order.

4. The Appeal stands allowed.

(V.N. Sinha, J)

(Nilu Agrawal, J)

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