

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.669 of 2011

- =====
1. Chanderkanti Devi, wife of Rajkishore Prasad, resident of village-Gauria Bigha, P.S.-Ekangarsarai, District- Nalanda at present resident of Pakrisarai, P.S.-Nalanda, District- Nalanda.
 2. Suresh Prasad, son of late Ramkhelwawan Prasad, resident of village-Lakhisarai, P.S.-Noorsarai , District- Nalanda.

Defendant Appellant/s

Versus

Raj Kishore Pd, son of Shri Sachidanand Prasad , resident of village-Gauria Bigha, P.S.- Ekangarsarai, District- Nalanda.

Plaintiff Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Sanjay Prasad

For the Respondent/s : Mr. Shashi Chandra Pandey

=====

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

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

9 11-05-2015 In the light of our order dated 27.04.2015, respondent-husband has appeared through counsel.

2. Having heard counsel for the appellants, respondent-husband, we proceed to dispose of the present appeal, arising out of order dated 26.07.2011, passed by Principal Judge, Family Court, Biharsharif, Nalanda in Misc. case No. 1/2005, whereunder learned Principal Judge refused to set aside the ex-parte judgment of divorce dated 08.11.2004, dissolving the marriage of the appellant No.1 with respondent-husband. It appears no sooner appellant-wife came to know about the judgement and order dissolving her marriage with respondent-husband, she filed Misc. Case No. 1/2005, which has been rejected by the impugned order dated 26.07.2011.

3. Having gone through the order dated 26.07.2011 we are satisfied that appellant-wife was prevented from appearing in

Divorce case No. 1/ 2000 and because of her non appearance, said case was allowed ex-parte.

4. Having considered the order dated 26.07.2011, we set aside the ex-parte judgment, decree dated 08.11.2004 dissolving the marriage of the appellant with respondent and direct both appellant Nos. 1, 2 as also respondent to appear in Divorce Case No. 1/2000 on 18.05.2015, whereafter Principal Judge shall proceed with the hearing of the said Divorce case on due date. The learned Principal Judge shall be obliged to dispose of Divorce Case No. 1/2000 as early as possible, in any case within four months from 18-05-2015.

5. The Court below shall consider the request of the respondent-husband to subject the appellant, her only daughter to undergo D N A test, to confirm the paternity of the daughter for which the respondent-husband will bear 75 % cost and 25 % cost will be borne by the appellant-wife. The Court below shall also consider the desirability of passing an order for payment of maintenance by the respondent-husband to the appellant and her daughter.

6. The appeal is, accordingly, disposed of.

(V.N. Sinha, J)

(Nilu Agrawal, J)

Sudha/-

U			
---	--	--	--