

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.477 of 2013

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Kumar Abhishek, son of Jitendra Kumar Choudhary, Resident of Mohalla-
Wheelarganj, P.S. Laheria Sarai, District- Darbhanga.

.... Appellant

Versus

Shiku Kashyap, W/o- Kumar Abhishek, D/o- Dr. Mohan Chowdhary, resident of
Mohalla- Wheelarganj, P.S. Laheriasarai, District- Darbhanga. At present Shiku
Kashyap, D/o- Dr. Mohan Choudhary, Doctor at Police Hospital, Laheriasarai,
Resident of Mishra Tola (Bhatiyarisarai) District- Darbhanga.

.... Respondent

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Appearance :

For the Appellant : Mr. P.K. Das, Advocate.

For the Respondent : Mr. R.K. Pathak, Advocate.

Mr. Satish Kumar, 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: 07-07-2015

Heard learned counsel for the appellant
and the respondent.

2. By filing this appeal, appellant
husband has assailed the order dated 18.06.2013
passed by Principal Judge, Family Court, Darbhanga
in Misc. Case No. 03 of 2012, whereunder ex parte
decree dissolving his marriage with the respondent
wife has been set aside under Order IX Rule 13 C.P.C.

3. It is submitted on behalf of the
appellant that while setting aside the ex parte decree,
Principal Judge did not notice that the application to
set aside the ex parte decree was filed 10 months after

expiry of the limitation period and to highlight the said fact present appeal has been filed.

4. Grounds taken in support of the appeal is wholly frivolous besides respondent wife having not been given any litigation cost, maintenance, accordingly, while dismissing the appeal, I direct the appellant husband to first pay litigation cost to the wife for appearing in this appeal and the amount of such litigation cost is fixed at Rs. 5,000/- (five thousand). So far litigation cost for the proceeding in the court below is concerned, wife shall apply before the Family Judge. While considering the plea of the wife for grant of litigation cost, court below shall also consider the desirability of allowing interim maintenance to her.

(V.N. Sinha, J)

(Nilu Agrawal, J)

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