

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.844 of 2012

Sanjay Kumar son of Late Baleshwar Singh, Resident of Mohalla- Sanchipatti, P.O and P.S- Hajipur, District- Vaishali.

.... Petitioner/Appellant

Versus

Smt. Nilam Devi, Daughter of Birendra Prasad Singh, Resident of Village- Sultapur, P.S- Desari, District- Vaishali.

.... Opposite party/Respondent

Appearance :

For the Appellant/s : Mr. Ram Kishore Singh, Advocate &
Mr. Satyapal Singh, Advocate

For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

**HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

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

Date: 09-02-2015

Heard learned counsel for the appellant.

2. Husband has filed this appeal assailing the impugned judgment dated 14.09.2012 passed in Divorce Case No. 125 of 2009 by the Principal Judge, Family Court, Vaishali, whereunder his request for dissolution of marriage with sole respondent on the ground of adultery and desertion has been rejected.

3. It appears, allegation of adultery has been levelled against the opposite party-respondent without even impleading the man who is said to have been in adulterous relationship with opposite

party-respondent. In such circumstances, the allegation of adultery could not have been established and the court below, in our opinion, has rightly chosen to reject the ground of adultery for dissolution of marriage between the appellant and the respondent. The other ground for dissolution of marriage i.e. desertion also does not appear to be made out as there is no evidence on record to even indicate that it was the respondent who left the matrimonial home out of her own accord.

4. In such circumstances, we have no option, but to dismiss the appeal, which is, accordingly, dismissed.

(V.N. Sinha, J.)

(Ahsanuddin Amanullah, J.)

Arjun/-

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