

**THE HIGH COURT OF TRIPURA
AGARTALA**

MAT App. 06 of 2014

Sri Biju Sinha

S/O Sri Gunadhar Sinha
Resident of Village-Nityanandapur,
P.O. Nityanandapur,
P.S. Lala, District-Hailakandi,
Assam.

..... Husband-Appellant

Versus

Smt. Archana Singha

W/O Sri Biju Sinha
At present residing at
Village & PO-Lalsingmura,
PS Bishalgarh, District-Sepahijala
State of Tripura.

..... Wife-Respondent

**BEFORE
THE HON'BLE MR. JUSTICE U.B. SAHA
THE HON'BLE MR. JUSTICE S. TALAPATRA**

For the appellant : Mr. DC Roy, Advocate.

For the respondent : Mr. A De, Advocate

Date of hearing and
delivery of judgment : **28.01.2015.**

Whether fit for reporting : **Yes/No**

JUDGMENT AND ORDER (ORAL)

(Saha. J.)

This is an appeal under Section 39 of the Special Marriage Act, 1954, against the judgment and decree dated 19.02.2014 delivered in TS (Div) 211 of 2012 passed by learned Judge, Family Court, West Tripura, Agartala whereby the petition, filed by the petitioner, appellant herein, under Section 27(1)(d) of the Hindu Marriage Act, 1954 was dismissed. Being aggrieved by the said judgment and decree the petitioner, appellant herein, filed this appeal.

2. Fresh reconciliation was attempted by this Court, which, however, failed. Ultimately, the appellant, the petitioner in TS (DIV) 211/2012 and the respondent in TS (DIV)211/2012 have filed a joint application under Order 23 Rule 3 of the CPC regarding the settlement of divorce on mutual consent. The said application has been signed and verified by both the appellant and the respondent.

3. In the application, they have stated as under:

“3. That, at the intervention of the parents, guardians and well wishers of the parties the matter in dispute has been settled amicably between the parties outside the Court in the following terms and conditions.

4. That, the husband-petitioner shall pay an amount of Rs. 5,00,000/- (Rupees five lac) only in cash to the Wife-Respondent as full and final settlement of the claim for dissolving the marriage in between them.

5. That, the Wife-Respondent has got no objection to dissolve the marriage tie in between them.

6. That, the Wife-Respondent will not claim any future maintenance and/or any sort of claim over movable property/immovable property of the Husband-Petitioner.

7. That, the wife undertakes that the earlier maintenance granted in her favour on 23.06.2012 granted by Ld. Family Court, Agartala, West Tripura in Misc. Case No. 238 of 2011 and the subsequent order of the Hon'ble High Court in Crl. M. Appl. 174 of 2012 arising out of Crl. Rev. P. 71 of 2012 directing the Husband to pay Rs. 4,000/- per month shall stand dissolved from December, 2014.

8. That, there is no pressure under influence upon the parties from any corner, rather the compromise is voluntary in free will and in sound health and mind of the parties.”

4. Since the parties are present in the Court, the Court has verified their statements made in the said application and found that the statements are not made under any sort of duress or coercion but those are made voluntarily.

5. In view of that, this Court converts the petition for dissolution of marriage filed by the appellant herein into a petition for decree of divorce by mutual consent under Section 28 of the Special Marriage

Act, 1954 and waives the requirements of the provisions of sub-section (2) of Section 28 of the Special Marriage Act, 1954 considering that the petition for dissolution of marriage was filed by the appellant on 12.09.2011 and the appellant and respondent are living separately since 16.03.2011.

6. During the Court proceedings, the appellant-petitioner-husband paid an amount of Rs.5,00,000/- (Rupees Five Lakhs only) in cash to the respondent-wife as full and final settlement of the claim for dissolving the marriage in between them.

7. Since the appellant and the respondent have failed to reconcile their differences and they have reached at the settlement to have their marriage dissolved by a decree of divorce on mutual consent, this Court is of the view that the marriage subsisting between the appellant and the respondent shall be dissolved by a decree of divorce on mutual consent. It is ordered.

8. Prepare a decree accordingly. The joint application filed by the parties under Order 23 Rule 3 of the CPC recording the settlement for divorce on mutual consent shall form part of the decree. The appeal is disposed of accordingly.

JUDGE

JUDGE

lodh