

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.236 of 2012

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Radhe Shyam Singh S/O Late Kamta Singh R/O Village - Naika Baiju Tola,
P.S. Rivilganj, District - Saran At Chapra Appellant

Versus

1. Khushbu Devi W/O Radhe Shyam Singh, D/O Alakh Niranjana Singh
R/O Village - Naya Jan Tola, Near Rajendra College, More, P.S.
Bhagwan Bazar, District - Saran At Chapra
 2. Alakh Niranjana Singh, son of not known, father of Khushbu Devi, r/o
Nayajan Tola, near Rajendra College More, P.S. Bhagwan Bazar,
district Saran at Chapra Respondents
- =====

Appearance :

For the Appellant : None
For the respondent no. 2 : Mr. Dr. Alok Kumar Sinha & Mrs. Raj
Rashmi Sinha, Advs.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

21 26-10-2016

The present appeal arises out of an order passed by the learned Principal Judge, Family Court, Saran at Chapra, on 11th January, 2011, whereby petition for dissolution of marriage on the ground of cruelty and that respondent is living with other person was dismissed.

During the pendency of the present appeal on 10th April, 2015, the parties offered to reside together and the respondent went with the appellant to reside with him. But, on the next date, i.e., on 29th April, 2015, an affidavit was filed by the respondent that the appellant did not obey the direction contained in the order, dated 10th April, 2015, left respondent no. 1 and went

away. It is thereafter, the appellant offered to pay rupees one lakh as an ad hoc amount and given time to find out how much time he requires for final settlement.

Subsequently, on 4th September, 2015, the appellant agreed to pay a sum of Rs.1,50,000/- and/or before 6th November, 2015 as final settlement of matrimonial disputes but thereafter, the appellant has not deposited the amount, agreed. It was on 6th November, 2015, this Court ordered that if the amount is not paid and/or before 15th January, 2016, coercive step shall be taken against the appellant and will initiate contempt proceedings. Such time was granted when the appellant filed an interlocutory application to grant him time to deposit the amount.

Today, the appellant is not present nor the amount of Rs.1,50,000/- have been paid to respondent. The appellant has failed to comply with the terms of settlement arrived at on earlier occasion. The fact is that the learned Principal Judge, Family Court, has recorded a categorical finding that the appellant has not disclosed the name of the person with whom the respondent is said to be living therefore, in absence of alleged adulterer, the petition is not maintainable. With respect to allegation of cruelty, the learned Principal Judge, Family Court, recorded that no specific instance has been given and simply wild allegation has been made

that the appellant used to assault the respondent. Therefore, in view of the findings recorded, which we find are just findings, we do not find any ground to interfere in the present appeal. The same is dismissed.

However, we notice that appellant has given an undertaking to the Court to pay a sum of Rs.1,50,000/- towards settlement of matrimonial dispute, but, even after giving statement the appellant failed to comply the order. Therefore, we deem it appropriate to initiated contempt proceeding against the appellant for intentionally not obeying the order of the Court.

Let notice be issued to the appellant as to why he should not be punished for violation of the order.

The office to register a separate petition and issue notice accordingly.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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