

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.1901 of 2008

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Dina Devi, Wife of Dilip Kumar Yadav, Resident of Village-Gaivipur, P.O.-
Ranjeetpur, P.S.and District-Sitamarhi.

.... Petitioner.

Versus

1. Dilip Kumar Yadav, Son of Ramshresth Prasad Yadav, Resident of Village-Sankhi, P.S.-Riga, District-Sitamarhi.
 2. Vijay Rai, Son of Rambrij Rai, Resident of Village-Ranjeetpur, P.S.& District-Sitamarhi.
- Opposite parties.
- =====

Appearance :

For the Petitioner/s : Mr. MAHENDRA THAKUR
Mr. Ajay Kumar Sinha

For the Opposite party no.1: Mr. Arun Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 29-04-2016

V.Nath, J.

No body appears on behalf of the petitioner even after repeated calls for hearing of this revision application.

The learned counsel for the opposite party is present and has made his submissions.

By the impugned order under challenge in this revision application the learned court below has rejected the prayer of the petitioner for recall of the order dated 10.04.2006 by which the matrimonial case was directed to proceed ex parte against the petitioner.

The facts apparent from the impugned order and the materials on record is that the opposite party filed Matrimonial Case No.12/2005 seeking divorce against the petitioner. In the said



matrimonial case opposite party no.2 Vijay Rai was also impleaded as opposite party no.2 alleging that the opposite party no.1 had married with opposite party no.2. The impugned order shows that the summons were issued to the opposite party no.1 which was received by her father on 26.09.2005 but she did not choose to appear in the matter before the learned court below. In the present revision application, the statement made by the petitioner under Section 164 Cr.P.C. in G.R.Case No.242/2007 Sitamarhi P.S.Case No.73/2007 is annexed where the petitioner has admitted her court marriage with the opposite party no.2 and has also accepted that out of said wedlock a son was also born. In the said statement she has also stated that she was earlier having affair with opposite party no.2 and now after the marriage she wanted to live with the opposite party no.2. The learned court below has also taken into notice the stand of the opposite party no.2 wherein he has stated that the petitioner is his legally married wife. After scrutiny of the materials before it, the learned court below has rejected the prayer on behalf of the petitioner for recall of the order dated 10.04.2006.

The learned counsel for the opposite party no.1 after pressing the aforesaid documents annexed with the counter affidavit filed by the opposite party no.1 has submitted that the intention of the petitioner and his father is only to harass the opposite

party no.1 which is also evident and corroborated by the materials on record and considered by the learned court below. It has, therefore, been submitted that this revision application has got no merit and the learned court below has committed no error of jurisdiction in passing the impugned order.

After considering the submissions as well as the materials on record including the impugned order, this Court finds that the learned court below has analyzed the evidence produced before it both by the petitioner as well as the opposite party and thereafter has passed the impugned order rejecting the prayer of the petitioner. This Court, therefore, comes to the conclusion that no error of jurisdiction or material irregularity has been committed by the learned court below justifying interference in exercise of revisional jurisdiction.

The revision application is, accordingly, dismissed.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.05.2016
Transmission Date	NA