

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.675 of 2010

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Rajesh Kumar Thakur, son of Ram Ashray Thakur, resident of village –
Dhanouja, P.S. – Benipatti, District – Madhubani.

.... Appellant

Versus

Sushila Kumari, daughter of Shivjee Thakur, resident of village – Katka,
P.S. – Singhwara, District – Darbhanga.

.... Respondent

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Appearance :

For the Appellant/s : Mr. PRABHAS RANJAN

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 25-10-2016

A further supplementary affidavit has been filed on behalf of appellant-husband. In the said supplementary affidavit, it has been brought on record that the respondent had filed a maintenance case under section 125 Cr.P.C., being Maintenance Case No. 115/2009, in the Court of Principal Judge, Family Court, Darbhanga. The Court, on 01.04.2011, allowed monthly maintenance at Rs. 1000/-. She subsequently filed an application for enhancement thereof to Rs. 2500/-, which matter is still pending. Pursuant to that application being Criminal Miscellaneous No. 06/2012 has been filed in the same Court. She has been examined on 05.01.2015, which deposition has been annexed to this supplementary affidavit, wherein, first, she has admitted that appellant would be earning about Rs. 10,000/- a month maximum. She then has prayed for increase of monthly

maintenance from Rs. 1000/- to Rs. 2500/-. This has been brought in as evidence, both with regard to appellant's income as well as the demand of the respondent.

Sri Abhay Kumar Thakur, AOR No. 01077, learned counsel for the respondent-wife, states upon instruction that, in fact, the marriage has irretrievably broken down and there is no chance of any reconciliation. Accordingly, both the parties are agreeable to separate. They agreed for dissolution of their marriage by decree of divorce, subject to payment of maintenance under Section 25 of the Hindu Marriage Act, 1955.

In our view, the approach is correct. Once, it is established that the parties cannot live together and have been, in fact, living separately and independently for more than last eight (8) years, it is better to end the bitter conflicts and start a new life once again when there is time still left, rather than continue fighting.

In that view of the matter, the marriage, as between the appellant and the sole respondent, is dissolved by decree of divorce.

This appeal is, accordingly, allowed. Order of Principal Judge, Family Court, Darbhanga, in Maintenance Case No. 52/2009 dated 31st May, 2010 is set aside.

The decree of divorce would be subject to the condition that the appellant-husband would pay a sum of Rs. 3000/- per month as maintenance to the respondent-wife. The respondent-wife would immediately disclose details of

her bank account to the appellant-husband, so that the money can be electronically transferred on monthly basis to the respondent-wife without any further delay or latches.

In view of the aforesaid settlement as between these parties, all civil and criminal cases, as between the parties, would stand withdrawn or abated or compromised. This final settlement of payment of monthly maintenance at the rate of Rs. 3000/- (Rupees Three Thousand) per month would start from 1st of November, 2016. The maintenance would continue till respondent-wife remarries.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/N.A.F.R.

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