

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.443 of 2012

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Santosh Kumar S/O Sri Jai Prakash Sah R/O Village - Dagroo, P.O.
Singhara, P.S. Mahua, District – Vaishali Appellant

Versus

Sweta Raj W/O Santosh Kumar, D/O Vijay Shankar Sah R/O Mohalla -
Ushupur, Near Chaurasia Maha Vidiyalaya, Post Office - Hajipur, P.S.
Industrial Area Vaishali, District - Vaishali At Hajipur.... Respondent

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Appearance :

For the Appellant/s : Mr. Surendra Kishore Thakur

For the Respondent/s : Mr. Ajit Singh

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

19 15-11-2016 Heard Mr. Surendra Kishore Thakur, learned counsel for the

appellant and Mr. Ajit Kumar Singh, learned counsel for the sole

respondent.

The appellant is the husband and the sole respondent is
wife. They were married according to Hindu custom on
11.12.2005, soon after marriage, there was serious differences
between the two which ultimately led to filling of original suit No.
135 of 2007 by the appellant seeking divorce. This suit having
been dismissed by the Principal Judge, Family Court, Vaishali at
Hajipur vide judgment dated 20th July, 2011, the present appeal
has been filed.

Pursuant to notice issued, the respondent wife has appeared.



The order sheet of this Court would show that this Court on different dates made serious efforts for reconciliation but the efforts fail. Even in the court below efforts were made but neither parties was serious about repairing the relationship. The parties were married in the year 2005 and soon thereafter, the differences occurred. We are not sitting in judgment what was the reason thereof but one thing is apparent that it was basically incompatibility of status. At the time of marriage the appellant was the store keeper Grade III post in Railway whereas the respondent was a post graduate and daughter of practicing dental doctor. In stead of people coming together and bring about reconciliation things went bad to worse. In 2007 the appellant filed the present suit for divorce. Upon notice being issued, came the retaliation from the girl's side. The appellant was visited with a case under Section 498A IPC. He was arrested and spent a considerable period in custody. This sealed the fate of the parties. After five years of court battle the suit was dismissed. We are now 11 years since the marriage. Both the parties have spent their time fighting each other. We had considered the matter, reconciliation having failed, the parties have realized at last that continuing litigation does not enure to benefit either of them, rather it



uselessly occupies their hands and occupies unnatural burden on both the parties. Both are young, there is time to start new life, if the parties cannot live happily together, efforts at different times at different stages having been failed, we are happy to note that they have agreed to separate upon settlement of permanent alimony. We have considered the earning of the appellant, who is the Store Keeper in the East Central Railways, we have considered the economic background of the respondent. We had given option to the parties to settle down amongst themselves and take a uniform decision in this regard. We are happy to note that both the parties are present with their lawyer. The parties agreed that the judgment and decree of the court below be reversed and a judgment in terms of Section 13 (B) of Hindu Marriage Act, in terms of divorce by mutual consent be passed, subject to one time permanent alimony. Payment of Rs. 10,00,000/- (ten lac) be paid by the appellant by direct transfer into the account of the respondent, details whereof would be disclosed by the respondent to the appellant.

It is therefore, ordered that the marriage between the parties are divorced, subject to the aforesaid payment which would be made within six months from today.

The judgment and decree of the trial court is accordingly,
set aside and modified to the extent above and this appeal is
allowed.

(Navaniti Prasad Singh, J)
(Jitendra Mohan Sharma, J)

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