

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.178 of 2015

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1. Dr. Shailendra Kumar S/o Late Ramdeo Tiwary, R/o Village Mahjpura,
P.S.- Bikram District Patna and at present residing at A/3 Vyash Nagar,
P.S.- Shashtri Nagar, District Patna Appellant

Versus

1. Dr. Sweta Tiwary @ Dr. Sweta Tripathi, W/o Shailendra Kumar, resident
of Mohalla A/3 Vyas Nagar, P.S. Shashtri Nagar, District Patna and at
present residing at House No. 147(C), Road No. 4, Mandir Marg, Ashok
Nagar, Ranchi Respondent

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Appearance :

For the Appellant/s : Mr. Sharda Nand Mishra, Advocate
Mr. Harish Chandra Patel, Advotacate

For the Respondent/s : Mr. Naresh Dikshit, Advocate
Mr. Brij Bihari Tiwary, Advocate

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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)

4 19-11-2016 Heard learned counsel for the appellant and learned
counsel for the sole contesting respondent.

The appellant is the husband who is aggrieved by the part
of judgment and decree dated 27th and 30th March, 2015
respectively, passed in Matrimonial Case No. 629 of 2012 by the
Principal Judge, Family Court, Patna. The said case was instituted
by his wife for divorce and claim of permanent alimony. The order
reveals that in spite of notice, the appellant only appeared but did
not file any written statement over two years. When the matter
was fixed for ex-parte hearing, he then entered appearance and
tried to contest but it was only sham contest in the manner that he



really did not take any interest. On behalf of applicants, before the trial court, who is the respondent herein, two witnesses were examined i.e. the applicant herself and her daughter. Upon examination of evidence, the trial court was satisfied that the appellant had mistreated and acted cruelly towards his wife, the respondent herein and the children. He accordingly, granted the decree of divorce, while doing so, considering the status of both the wife and the husband being doctors and both being in government service, he directed a permanent alimony to be paid for the marriage expense of the minor daughter Somya Tiwary an amount of Rs. 15 lakhs were to be paid. It is this part of the order by which the appellant is aggrieved.

Learned counsel for the appellant submits that there is no evidence that has been taken by the trial court. The submissions, in our view, is misconceived. The status of the parties as doctors in government service is not in dispute. Somya Tiwary is the daughter of the appellant is not in dispute. She is a minor and would be liable to be married is not in dispute. The social status and the financial status of doctors in government employment is well known. The trial court has considered the same and has fixed Rs. 15 lakhs to be paid by the appellant for the marriage of the minor daughter by making fixed deposit in her name cannot be, in

the facts and circumstances, said to be at all erroneous or excessive. These facts not being in dispute, it cannot be said that the trial court did not take any evidence in the matter. More so, when the appellant was not cooperating with the trial court. We, therefore, find no merit in this appeal. It is accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

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