

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.651 of 2017

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Satyendra Sharma, son of Tengari Sharma, resident of village Chhota Sasaram, P.S. Udwanthnagar, District Bhojpur

... .. Appellant/s

Versus

Kanchan Devi, d/o Prabhu Nath Sharma, resident of village Dumari, P.S. Semari, District Buxar, at present resident of village Kacharapada, P.S. Bijpur, District 24, Pargana (West Bengal)

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Chandan Kumar Verma, Advocate
For the Respondent/s : Mr. Om Prakash Singh, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 18-05-2018

Heard parties.

The Husband and the wife both are present in person before this Court.

This appeal has been preferred by the husband-appellant against the judgment and decree by which divorce case filed by the appellant has been allowed and the marriage has been dissolved by the court below. The wife has not preferred any appeal against that judgment.

It is obvious from the memorandum of appeal and as has been stated by learned counsel for the appellant as well as the appellant, who is personally present, that, in fact, this appeal is being preferred only against the amount of rupees five lacs



allowed to the respondent by way of alimony to the court below. However, now a petition has been filed by him that he is ready to even pay rupees five lacs if allowed to be paid in instalment within a period of one year. Learned counsel for the respondent has also filed affidavit and she is ready to accept rupees five lacs.

Accordingly, this appeal stands disposed of with a modification in the judgment impugned to the effect that rupees five lacs would be paid by the appellant in favour of the respondent not as a lump sum amount rather within a time span of 12 months. The appellant would be required to pay the amount in four instalments in the Execution Case No. 1 of 2017 pending before the Principal Judge, Family Court, Bhojpur at Ara filed by the respondent-wife.

The wife has stated before us that after the payment of such amount, she will file petition for withdrawal of all the criminal cases filed by her against the appellant and their family members.

In case such petition is filed, the concerned court would be required to pass necessary order in accordance with law also taking into account several decisions of the various courts including the Apex Court holding that such cases should be decided considering that these are family matters. Such petition



would be required to be filed by the wife – respondent within a month after the last instalment is deposited in the Execution Court concerned. The court concerned would be required to dispose of the same within a period of two months.

The respondent would be at liberty to withdraw the amount deposited by the appellant in the Executing Court.

However, it is made clear that if the appellant fails to deposit the entire amount, the respondent would be at liberty to file a petition for initiation of contempt proceeding.

In case, even after payment of the amount, the respondent does not file petition for withdrawal of the criminal cases filed against the appellant before court below then the appellant would be at liberty to file a petition for initiation of contempt proceeding.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.06.2018
Transmission Date	NA

