

HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 22 of 2000

- Smt. Beliya, W/o M. Lal, aged about 37 years, R/o Quarter No.843-G/Sadak-Risali Sector, Bhilai, District Durg (C.G.)

---- Petitioner

Versus

- Maithyu M. Lal, aged about 45 years, Quarter No.15B/Sadak, 16 Sector 2, Bhilai, District Durg (C.G.)

---- Respondent

This is an office reference.

Hon'ble Shri Justice Prashant Kumar Mishra

Hon'ble Shri Justice Goutam Chourdiya

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

15/11/2018

1. This first appeal is a reference made by the 5th Additional District Judge, Durg, Chhattisgarh for orders on confirming the decree of divorce granted on the application of the wife under Section 10 of the Indian Divorce Act, 1869.
2. The judgment rendered by the Additional District Judge has recorded a finding that the respondent husband has committed adultery and cruelty as he has not appeared before the Court to defend the allegations. The allegations have been proved on the strength of statement of the wife and her father (PW-2) S. S. Kumar Roy. The record also contains the judgment rendered by the 4th ADJ, Durg allowing wife's application under Section 7 of the Guardians and

Wards Act, 1890 declaring her to be the guardian of two daughters born out of the marriage.

3. We have seen the record of the trial Court. The finding recorded by the court below is fully supported by the evidence available on record. Moreover, the husband remained *ex parte* and did not file any written statement. Despite severance of their marriage, the husband has not preferred any appeal against the *ex parte* decree, therefore, he appears to have reconciled with the fact situation in his life and both the parties, who were married on 05.05.1980, are living separately from the month of June/July, 1991, as is reflected in the plaint averments contained in para 6 & 7 thereof. On the basis of the obtained facts and circumstances of the case, we are satisfied that the decree of divorce deserves to be and is hereby confirmed under Section 20 of the Act, 1869, which has now been repealed by Act No.51/10 w.e.f. 03.10.2001, however, the subject decree having been rendered on 30.09.1998, the same is required to be dealt with in accordance with the provisions as it existed on the date of decree.
4. The reference is disposed of accordingly.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Goutam Chourdiya
Judge

Sd/-
Vimla Singh Kapoor
Judge