

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.271 of 2018**

Sanjeev, Son of Sri Birendra Kumar Thakur, 201 Vidya Niwas, Road No. 11 F, Rajendra Nagar, P.S.- Kadamkuan, town and District- Patna.

... .. Appellant/s

Versus

Amita Kumari, Do Sri Bilat Jha, Resident of Mohalla- Hanumanganj, Professor Colony, P.S.- Town, District- Darbhanga.

... .. Respondent/s

with

**Miscellaneous Appeal No. 531 of 2018**

Smt. Amita Kumari, W/o Sri Sanjeev, D/o Sri Bilat Jha, resident of Mohalla- Hanumanganj, Professor Colony, P.O. P.S. District- Darbhanga.

... .. Appellant/s

Versus

Sri Sanjeev, S/o B.K. Thakur, resident of 202, Vidya Niwas, Road No. 11 F, Rajendra Nagar, P.S. Kadamkuan, Patna- 16.

... .. Respondent/s

**Appearance :**

(In Miscellaneous Appeal No. 271 of 2018)

For the Appellant/s : Mr. Amresh, Adv.  
Mr.Amitesh Kumar, Adv.  
Mr, Anirudh Kumar, Adv.  
For the Respondent/s : Mr.Sushil Kumar Jha, Adv.

(In Miscellaneous Appeal No. 531 of 2018)

For the Appellant/s : Mr.Sushil Kumar Jha, Adv.  
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**and**  
**HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA**  
**ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)**

6      13-08-2019                      Heard learned counsels for the appellant and the respondent.

The abovementioned Miscellaneous Appeals have been preferred one being M.A. No.531 of 2018, the other being M.A. No. 271 of 2018 by Amita Kumari, the wife and Sanjeev,



the husband challenging the judgment and decree dated 19.12.2017, passed by the learned Principal Judge, Family Court, Darbhanga in Matrimonial Case No. 210 of 2013 whereby the matrimonial suit, preferred by the husband, Sanjeev for a decree of divorce, on the ground of cruelty and desertion, has ultimately been resulted into a decree of judicial separation under Section 10 of the Hindu Marriage Act, 1955.

Learned counsel for the appellant Sanjeev in Miscellaneous Appeal No. 271 of 2018 seeks permission to withdraw Miscellaneous Appeal No. 271 of 2018 with a liberty to file a fresh matrimonial suit for seeking decree of divorce under Section 13(1) A of the Hindu Marriage Act, 1955, on the ground that there is no resumption of cohabitation between the appellant and the respondent for about two years after passing the decree of judicial separation.

Learned counsel for the appellant Amita Kumari in Miscellaneous Appeal No. 531 of 2018 also seeks permission to withdraw Miscellaneous Appeal No.531 of 2018 with a liberty to raise all the issues as raised in the present Miscellaneous Appeal, if any such matrimonial suit is filed by the husband before the Court concerned and also to file a fresh suit for restitution of conjugal rights.



Permission is accorded.

Accordingly, both the aforementioned Miscellaneous Appeals are disposed of as withdrawn with the liberty aforementioned.

**(Dinesh Kumar Singh, J)**

**( Arvind Srivastava, J)**

Ashwini/-

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