

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.811 of 2016

Sumit Kumar Son of Sri Sanjay Poddar, Resident of Mohalla- Pethia Gachi,
Ward No. 24, P.S. Town- Samastipur, District- Samastipur.

... .. Appellant

Versus

Rupam Kumari W/o Sumit Kumar, D/O Ramdeo Poddar, Resident of
Mohalla- Pethia Gachi, Ward No. 24, P.S. Town- Samastipur, District-
Samastipur, present address-village Bhorejairam, P.S. Khanpur, District
Samastipur.

... .. Respondent

Appearance :

For the Appellant	:	Mr. Abhay Shankar Singh, Adv. Mr. Amit Kumar Mishra, Adv. Mr. Mayank Mohan, Adv.
For the Respondent	:	Mr. Deepak Kumar, Adv.

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

Date : 15-11-2019

1. Heard learned counsel appearing for the appellant
as well as learned counsel appearing for the respondent and
perused the impugned judgment and lower court record.

2. The appellant has preferred this miscellaneous
appeal against the impugned judgment dated 31.05.2016 passed by



learned Principal Judge, Family Court, Samastipur in Divorce Case No. 134 of 2014 by which and whereunder he dissolved the marriage of the parties passing decree of divorce on mutual consent and also directed to pay one time alimony for maintenance of Rs. 2,60,000/- and in addition to the aforesaid amount the learned Principal Judge further directed the appellant to return the ornaments and other things which were given to him at the time of solemnization of marriage or pay rupees four lacs to respondent in addition to Rs. 2,60,000/-.

3. The grievance of the appellant is that the learned Principal Judge added the amount of rupees four lacs suo motu as neither there was pleading of the parties nor there was demand of respondent in respect of above stated four lacs.

4. Learned counsel appearing for the appellant submits that appellant and respondent filed petition under Section 13 (B) of Hindu Marriage Act for mutual divorce and in course of enquiry both parties appeared before the learned Principal Judge, Family Court and agreed for mutual divorce as well as one time permanent alimony of Rs. 2,60,000/- but learned Principal Judge suo motu directed the appellant to return the ornaments and other things or pay rupees four lacs to respondent particularly in the



circumstance when there was no such demand of respondent nor there was any pleading of the parties.

5. Learned counsel appearing for the respondent conceded the above stated submission adding that respondent is satisfied by getting decree of divorce as well as Rs. 2,60,000/-. He further submitted that respondent has already solemnized her second marriage and she does not have any grievance if the impugned judgment is modified as per submission advanced on behalf of the appellant.

6. From perusal of lower court record, we find that respondent never demanded to return the articles which are said to have been given to the appellant but it appears that learned Principal Judge suo motu directed the appellant to return the articles which are said to have been given at the time of marriage. Moreover, the respondent does not want to take the aforesaid amount and, therefore, in the aforesaid circumstance, we are of the view that this appeal may be disposed of by modifying the impugned judgment and accordingly, this appeal is allowed, as a result of which the portion of the impugned judgment by which the appellant has been directed to return the ornaments and other articles or make payment of rupees four lacs to respondent is



struck down and accordingly, it is ordered that judgment and decree be modified to the above stated extent.

(Hemant Kumar Srivastava, J)

(Partha Sarthy, J)

shahzad/-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	18.11.2019
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