

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.78 of 2018

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Smita, W/o- Dhananjay Singh @ Pappu, and D/o- Narendra Prasad Singh,
Resident of Village-Siyawak, P.O.-Siyawak, P.S.- Rajpur, District-Rohtas, At
Present residing with her father at Village-Kirhindi, P.O.-Kirhindi, P.S.-
Sheosagar, District-Rohtas.

... .. Appellant

Versus

Dhananay Singh @ Pappu, S/o Late Ram Janam Singh, Resident of Village-
Siyawak, P.O.-Siyawak, P.S.-Rajpur, District-Rohtas.

... .. Respondent

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Appearance :

For the Appellant	:	Mr. K.N. Chaubey, Sr. Adv. Mr. Bhanu Pratap Singh, Adv.
For the Respondent	:	Mr. Ashok Kumar Pandey, Adv. Mr. Rajni Kant Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

Date : 24-04-2019

Learned counsel for the appellant is permitted to
make necessary correction in the petition.

Heard Mr. Bhanu Pratap Singh, learned counsel
for the appellant and Mr. Rajni Kant Pandey, learned counsel for
the respondent.

The present appeal has been directed against the
judgment and decree dated 07.11.2017 and 14.11.2017, passed
by learned Principal Judge Family Court, Rohtas at Sasaram, in
Matrimonial Case No. 21 of 2010, whereby the matrimonial
case filed by the appellant under Section 13 of the Hindu
Marriage Act for dissolution of marriage, has been dismissed.



The factual matrix of the case is that the appellant was married with the respondent on 05.05.2007. At the time of marriage, it was conveyed to the appellant that the respondent is working as Probationary Officer in the State Bank of India, but subsequently, the appellant came to know that the respondent is working as a sweeper at Pune. Thereafter, the father of the appellant lodged Sheosagar P.S. Case No. 91 of 2008, with accusation under Sections 498A, 323 and 504 of the IPC against the respondent and his family members and subsequently, on 01.02.2010, the appellant filed Matrimonial Case No. 21 of 2010, before the learned Principal Judge Family Court, Rohtas at Sasaram with a prayer for dissolution of marriage on the ground of desertion and cruelty. Consequently, from the appellant's side, three witnesses were examined whereas from the respondent's side, two witnesses were examined. The learned Court below, appreciating the evidence adduced by respondent/petitioner, came to a conclusion that the appellant has failed to prove the ground of desertion and cruelty and consequently dismissed the suit.

It appears that the matrimonial suit was filed with four prayers, which reads as follows:-

“I. That on consideration and adjudication of the abovesaid facts a decree of divorce be passed by dissolving the marriage of



both the parties.

II. That a decree be also passed to return the belongings of the petitioner alongwith alimony of Rs. 20 Lakhs to the petitioner by the O.P.

III. That any other relief or reliefs to which the petitioner will be found entitled in the eye of the Learned Court that may also be awarded to the petitioner.

IV. That the cost of the case be ordered to be awarded to the petitioner by the O.P.”

It is submitted by the learned counsel for the respondent that the respondent is ready for dissolution of marriage but without payment of any alimony and cost of litigation.

Learned counsel for the appellant submits that the appellant is also ready for dissolution of marriage without any claim for alimony or litigation cost.

In the circumstances, learned counsel for the appellant seeks permission to withdraw the present Miscellaneous Appeal.

Both sides agree to file an appropriate matrimonial suit, under Section 13(B) of the Hindu Marriage Act for dissolution of marriage, before the learned Principle Judge, Family Court, Rohtas at Sasaram.

Since the appellant and the respondent are working outside the State hence, they could not file any affidavit



with regard to filing of Matrimonial Suit under Section 13(B) of the Hindu Marriage Act.

In the circumstances, the present appeal is permitted to be disposed of as withdrawn with above mentioned liberty to the parties.

It is expected from the Principal Judge, Family Court, Rohtas at Sasaram if any such matrimonial suit be filed, the same be disposed of expeditiously.

(Dinesh Kumar Singh, J)

(Prabhat Kumar Singh, J)

Amrendra/Deepak/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.04.2019
Transmission Date	

