

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.629 of 2018

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Ashok Mandal Son of Janardan Mandal @ Ganardhan Mandal, resident of
Village- Navtoliya Dhamdaha, Police Station- Simraha, District- Araria.

... .. Appellant/s

Versus

Amrita Devi Wife of Ashok Mandal D/o Teman Mandal, resident of Village-
Ghurghura, Police Station- Tarabari, District- Araria.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ramesh Kumar Singh
For the Respondent/s : Mr.Md. Naushad Uzzoha

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

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

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

Date : 03-02-2020

Re. I.A. No.1 of 2019

Heard learned counsel appearing for appellant as well
as learned counsel appearing for respondent on I.A. No. 1 of
2019, which has been filed for condonation of delay of 22 days
in filing this appeal.

The delay in filing this appeal is condoned on the
grounds mentioned in I.A. No. 1 of 2019 and in the aforesaid
manner I.A. No. 1 of 2019 stands disposed of.

Re. M.A. No. 629 of 2019

This appeal has been preferred against impugned
judgment and decree dated 21.05.2018 passed by learned



Principal Judge, Family Court, Araria in Matrimonial Suit No. 93 of 2016, which was filed by appellant under Section 9 of the Hindu Marriage Act against the respondent for restitution of his conjugal right.

The respondent appeared in the aforesaid suit and she contested the said suit by filing her written statement. The learned Principal Judge, Family Court framed several issues on the basis of pleadings of the parties and examined the witnesses produced by the parties. Learned Principal Judge after evaluating the materials available on the record found that the respondent was driven out from her matrimonial home due to non-fulfillment of dowry demand and, moreover, the appellant solemnized his second marriage during pendency of the suit and on the aforesaid basis, the learned Principal Judge came to conclusion that the respondent had sufficient reason to reside separately from the appellant.

Learned counsel appearing for appellant submits that the appellant made several attempts to restore her matrimonial relationship with the respondent but without any rhyme or reason the respondent refused to lead her conjugal life with the appellant. He, further, submits that no doubt, the appellant has already solemnized his second marriage but even then he is



ready to keep the respondent with full honour and dignity. He, further, submits that earlier the dispute of the parties was referred to Mediation Centre but due to non co-operative approach of the respondent, the matter could not be resolved.

On the other hand, learned counsel appearing for respondent refuted the above stated submissions, arguing that, admittedly, appellant solemnized his second marriage with another lady in the life time of respondent and, therefore, learned Principal Judge rightly held that the respondent had sufficient reason to live separately from the appellant.

Having heard the contentions of the parties, we went through the impugned judgment.

In our view, this appeal can be disposed of on admission stage itself.

This fact is not in dispute that the appellant has solemnized his second marriage with another lady during pendency of the Matrimonial Suit No. 93 of 2016 and prior to filing of Matrimonial Suit No. 93 of 2016, the respondent lodged criminal case against the appellant. The perusal of the impugned judgment, further, goes to show that the witnesses examined on behalf of the respondent supported the aforesaid fact and, therefore, we are of the view that there is no scope to



interfere into the impugned judgment and, accordingly, this
miscellaneous appeal stands dismissed on admission stage itself
and the impugned judgment and decree are, hereby, confirmed.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

Spd/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	11.02.2020
Transmission Date	NA

