

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.148 of 2015

Manoranjana Kumar son of Sri. Surya Narayan Mandal, Resident of village -
Bairiya, Police Station - Tikapatti, District - Purnia

... .. Appellant

Versus

Nilam Kumari wife of Manoranjana Kumar, Daughter of Sri. Anil Kumar,
Resident of village - Nagdahri, Police Station- Rupauli, District - Purnia

... .. Respondent

Appearance :

For the Appellant : Mr. Raja Surendra Mohan, Adv
For the Respondent : Mr. Arun Kumar Mandal, Adv.

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

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

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

Date : 10-01-2020

Heard learned counsel appearing for the appellant as
well as learned counsel appearing for the respondent.

2. This appeal has been preferred against the judgment
and decree dated 19.01.2015 passed by learned Principal Judge,
Family Court, Purnea in Matrimonial Suit No 42 of 2013 by which
and where under he dismissed the aforesaid suit on contest.

3. The appellant filed the aforesaid matrimonial suit
against the respondent for a decree of divorce on the ground of
cruelty and desertion. The respondent appeared in the aforesaid
suit and by filing her written statement contested the said suit.
Both parties led evidences and subsequently, the learned Principal



Judge having considered the materials available on the record dismissed the aforesaid suit passing impugned judgment and decree dated 19.01.2015.

4. During pendency of this appeal good sense prevailed between the parties and parties agreed to get their marriage dissolved by mutual consent and they filed joint affidavit on 13.07.2018 mentioning the above stated fact. However, subsequently, the appellant filed supplementary affidavit disclosing this fact that respondent has solemnized her second marriage during pendency of this appeal. The respondent filed rejoinder to the above stated supplementary affidavit.

5. Both the parties are still on their respective stands that they want to get the marriage dissolved by a decree of divorce by mutual consent.

6. Perusal of materials available on the lower court record goes to show that marriage between the parties had taken place on 23.04.2004 but at the time of filing Matrimonial Suit No. 42 of 2013 both parties had been residing separately since long. Moreover, it also appears that there is no chance of reconciliation and the parties are not ready to live together. Therefore, in the aforesaid circumstance, we have no option except to set aside the impugned judgment and decree dated 19.01.2015 passed in



Matrimonial Suit No. 42 of 2013. Accordingly, the impugned judgment and decree dated 19.01.2015 passed in Matrimonial Suit No. 42 of 2013 is, hereby, set aside and the marriage of the parties is dissolved by a decree of divorce on the basis of their mutual consent as well as on the basis of terms and conditions arrived at between the parties which have been averred in joint affidavit dated 13.07.2018. The aforesaid joint affidavit dated 13.07.2018 shall be part of the decree.

7. In the aforesaid manner, this miscellaneous appeal stands disposed of.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	NA
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