

12.04.2021
Item No. 02
Ct. No. 04
PG

F.A.T. 711 of 2018
With
I.A. no. CAN 1 of 2019 (Old CAN 5958 of 2019)
With
I.A. no. CAN 2 of 2021
with
I.A. no. CAN 3 of 2021
Nitai Das Saha
Vs.
Smt. Aparna Saha

Mr. Ankit Agarwala....for appellant/applicant

Mr. Souma Subhra Roy...for respondent

This appeal was heard on 7th April, 2021. We, while looking at the papers had queries of parties and caused the appeal to be listed under heading 'To Be Mentioned'.

The queries arose because parties want divorce by dissolution of marriage. Appellant/husband's suit for divorce was dismissed and hence the appeal. Decree on appeal can only be on proof of one of the grounds in section 13, Hindu Marriage Act, 1955. We are convinced we cannot convert a matrimonial suit to be one for mutual divorce. That, Supreme Court has done in cases where said Court has exercised power under article 142 in the Constitution of India.

An option of the parties is to have the appeal withdrawn and thereafter file for divorce on mutual

consent, on fulfilling the statutory period requisite for filing such a suit.

Parties are to consider their respective positions.

List on 3rd May, 2021.

(Arindam Sinha, J.)

(Suvra Ghosh, J.)