

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 21 of 2018

- Smt. Chanchal Sharma W/o Shri Vikas Sharma Aged About 28 Years D/o Shri Kailash Sharma, R/o Sharma Aata Chakki Near Jain Mandir Bagbahra, Thana Bagbahara, Civil And Revenue District Mahasamund, Chhattisgarh (Defendant), District : Mahasamund. --- **Appellant.**

Versus

- Vikas Sharma S/o Shri Omprakash Sharma Aged About 30 Years R/o Choukhadiyapara Ward No.39, Rajnandgaon, Thana Basantpur, Civil And Revenue District Rajnandgaon, Chhattisgarh (Plaintiff), District : Rajnandgaon --- **Respondent.**

For the Appellant :- Mr. Sunil Sahu, Adv.
For the Respondent :- Mr. Aditya Bhardwaj, Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board by Justice Manindra Mohan Shrivastava, J.
06.09.2021

Heard.

2. This is an appeal directed against an *ex parte* judgment and decree of divorce passed against the appellant and in favour of the respondent on 21.09.2017 by learned Family Court, Rajnandgaon.

3. Learned counsel for the appellant would submit that at this stage he may permitted to withdraw this appeal with liberty to take appropriate remedy as may be available to him under the law for setting aside *ex parte* judgment and decree of divorce.

4. On the other hand, counsel for the respondent submits it is an old matter. Marriage was solemnized long back and since then after having stayed for 2 days, the appellant/wife is not inclined to live with the husband which led to the passing of decree of divorce on the ground of desertion for a period of more than 4 years. Therefore, the

appellant/wife intends to drag on the litigation for one reason or the other.

5. Having considered the submission of the learned counsel for the appellant, the objection of the learned counsel for the respondent cannot be sustained and is overruled.

As the appellant intends to take remedy for setting aside the judgment and decree passed against her, we are inclined to allow the appellant to withdraw the appeal with liberty to take remedy as may be available to her under the law.

Learned counsel for the appellant would submit that the period spent in prosecuting bonafide this appeal may be excluded to which, certain objections have been made by learned counsel for the respondent stating that this appeal has been filed after some delay.

Be that as it may, we leave it for the appropriate forum where the appellant approaches for setting aside *ex parte* decree to consider all objections including objection with regard to delay, if any.

6. Certified copy of the impugned judgment and decree be returned after retaining photocopy. Record of the Court below be remitted forthwith.

Appeal is closed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Ajay