

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.240 of 2018**

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Gyandeo Singh Son of Sri Hari Nandan Singh, Resident of Village-
Rahmatpur, P.S.- Asarganj, District- Munger.

... .. Petitioner/s

Versus

Rangina Devi Daughter of Late Sarjug Singh, Resident of Village- Dhani
Belari Purbi Tola, P.S.- Bath, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rana Ishwar Chandra, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 11-08-2022 Heard Mr. Rana Ishwar Chandra, learned counsel for
the petitioner.

The petitioner, who is husband, is aggrieved by the
order dated 15.06.2017 passed by the Principal Judge, Family
Court, Munger, by which on a petition filed by wife
(Respondent) under Order IX Rule 13 CPC *ex-parte* judgment
and decree dated 23.05.2014 and 30.05.2014 passed in
Matrimonial Case No. 1225 of 2013, has been set aside and the
Matrimonial Case has been restored to its original file.

Learned counsel for the petitioner submits that the
Respondent/Wife was having the knowledge of the Matrimonial
Suit for divorce and she deliberately did not appear in the
Matrimonial Case and refused to receive notice served upon her.
He further submits that the reason for filing Miscellaneous Case



under Order IX Rule 13 CPC by the wife is that now the petitioner after passing of the decree of divorce has joined in the Government service.

I have heard learned counsel for the petitioner and have gone through the impugned order. From perusal of the impugned order it appears that the learned Family Court has come to the finding that notice upon the Respondent/Wife was not served properly and, accordingly, *ex-parte* decree of divorce has been set aside. The Court has also come to the finding that there is nothing to show that wife Rangina Devi has intentionally avoided to appear in Matrimonial Case No. 1225 of 2013.

In view of the finding arrived at by the learned Family Court that the notice was not properly served upon the Respondent/Wife and she now wants to contest the case, I do not find any illegality in the impugned order.

Accordingly, this application stands dismissed.

(Anil Kumar Sinha, J)

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