

31.10.2022
SL No.17
Court No.8
(gc)

FA 447 of 2009

**Ramaprasad Pal
Vs.
Pampa Pal**

The appellant is not represented nor any accommodation is prayed for on behalf of the appellant.

We have perused the judgment and decree dated 30th November, 2006. The suit was filed by the appellant praying, *inter alia*, for decree of nullity of marriage, in the alternative, the decree for divorce on the ground of cruelty. The learned Trial Judge on the basis of the pleadings framed five issues and answered the five issues against the husband. The appellant before the Trial Court tried to project the respondent as insane which, however, was completely disproved having regard to the evidence of the defendant who was found to be coherent during her examination and cross-examination. The appellant attempted to prove schizophrenia and mental retardation on the basis of the evidence of P.W.-2 who claims to have treated the respondent. However, various contradictions were noticed in the evidence of the P.W.-2, namely, that he had examined the respondent only for one day and during his cross-examination he had admitted to have said that several sittings are required to come to a conclusive finding with regard to schizophrenia and mental retardation of a patient. The learned Trial Judge

apart from noticing the general statement made by P.W.-2 and the contradictions in his evidence has also taken into consideration that the marriage was consummated and the respondent during her conjugal life had given birth to a child. Moreover, she had completed her education as would be evident from Exhibit-A. Even from the cross-examination of the respondent, it would be evident that she could remember the subjects she had studied at Class-X and had taken tuition during her school leaving examination.

On the basis of the evidence, the findings of the Trial Court, in our view, could not be faulted. We have given enough opportunities to the appellant to appear and argue the appeal. He has conveniently left himself unavailable. In view thereof, we have taken this recourse to decide the appeal.

The appeal being FA 447 of 2009, accordingly, stands dismissed.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)