

DL. August 22,
24 2022
&
25.

F.A. 63 of 2013
With
F.A. 45 of 2013
Smt. Rakhi Chakraborty nee Mishra
Vs,
Tuhin Chakraborty

Mr. Jayanta Kumar Das,
Mr. Gourav Das,
Ms. Madhumanti Das,
...for the appellant.

Mr. Probal Kumar Mukherjee,
Mr. Suhrid Sur,
...for the respondent.

The appeal has arisen out of a judgment and decree dated August 30, 2012 passed by the learned Additional District Judge, 14th Court at Alipore, South 24-Parganas, in a suit filed by the husband/respondent for dissolution of marriage under Section 27 of the Special Marriage Act, 1954.

The suit was decreed on the ground of cruelty. The evidence on record would show that the charges of humiliation to the husband in the presence of the family members and friends, false allegation of illicit relationship and abusive comments were established at the trial. Moreover, the evidence on record would show that the appellant had withdrawn herself from the worldly life and living separately since August 2007. The possibility of reconciliation had also failed. Long separation without any intention to have physical relationship coupled with humiliation and abusive comments were the grounds on which the divorce was granted in favour of the husband. On going through the evidence on record, we are of the view that the husband was able to establish the charges of cruelty. The evidence of plaintiff's witnesses no. 1 and 2

establishes the allegations leveled against the appellant by the respondent/husband.

On such consideration, we dismiss both the appeals.

However, during the hearing the respondent/husband has agreed to execute a deed of gift in favour of his daughter, namely, Miss Rittika Chakraborty, in respect of Flat No. 2B (Second floor), 53/5, Raja Ram Mohan Roy Road, Barisha, Behala. The said deed of gift has already been executed on August 5, 2022, a photostat copy whereof is produced before us. The husband has also paid a sum of Rs. 30 lakh, as agreed during the hearing, by way of a demand draft dated July 21, 2022 by way of permanent alimony, which the wife/appellant has received. Photostat copy of the said demand draft is produced before us. The photostat copies of the deed gift dated August 5, 2022 and the demand draft dated July 21, 2022 are taken on record.

While dismissing the appeal, we record execution of the deed of gift dated August 5, 2022 in favour of the daughter of the husband and payment of Rs. 30 lakh in favour of the wife by way of permanent alimony.

The original deed of gift being No. I-8956/22 dated August 5, 2022 and the original deed of conveyance being No. I-07246/06 dated August 9, 2006 by which the said flat has been purchased are handed over to Mr. Jayanta Kumar Das, learned advocate for the appellant.

There will be no order as to costs.

dns

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)

