

**Kumari Sabitri Mishra
Vs.
Sri Arijit Roy Choudhury**

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Mr. Dilip Samanta
Mr. T.K. Bhattacharya
Mr. Ashis Kumar Paul
Mr. Biswa Priya Samanta
... For the Appellant

Mr. Shahrukh Raja
Mr. Abir Lal Ghosh
... For the Respondent

The ex parte matrimonial suit being no 273 of 2019 was dismissed on the ground that the appellant has failed to establish that the marriage between the parties is null and void.

In view of the fact that the learned trial judge in dismissing the matrimonial suit relied upon the evidence that the appellant and respondent stayed together as husband and wife for seven days in the house of the respondent, we do not find any reason to interfere with the impugned order.

However, having regard to the fact that the parties are living separately for 12 years and there is hardly any possibility of restoration of any matrimonial life and the learned counsel appearing for the respondent/husband has submitted that the husband is agreeable to mutual divorce under Section 28 of the Special Marriage Act, 1954, we have given liberty to the parties to approach before the jurisdictional court by filing an application for mutual divorce.

In the event any application for mutual divorce is filed, we request the jurisdictional court to dispose of the said petition preferably

within a period of three months from the date of filing of the application.

In view of the above, FAT 105 of 2021 is accordingly dismissed.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)