

IN THE HIGH COURT OF ORISSA AT CUTTACK

MATA NO.98 OF 2019

**Korrai Siva Prasad Rao @
K. Siva Prasad Rao** **Appellant**

Mr. S.K.Pradhan, Advocate

-versus-

**Smt. M. Sarala @ Korrai
Sarala** **Respondent**

Mr. T.Mishra along with Mr.A.K. Nandy, Advocate

MATA NO.97 OF 2019

**Korrai Siva Prasad Rao @
K. Siva Prasad Rao** **Appellant**

Mr. S.K.Pradhan, Advocate

-versus-

Smt. M. Sarala @ Korrai Sarala **Respondent**

Mr. T.Mishra along with Mr.A.K. Nandy, Advocate

MATA NO.99 OF 2019

**Korrai Siva Prasad Rao @
K. Siva Prasad Rao** **Appellant**

Mr. S.K.Pradhan, Advocate

-versus-

Smt. M.Sarala @ Korrai Sarala.... **Respondent**

Mr. T.Mishra along with Mr.A.K. Nandy, Advocate

CORAM:
JUSTICE S. TALAPATRA
JUSTICE M.S.SAHOO

ORDER

03.08.2022

Order No.

5. 1. This matter is taken up through hybrid mode.
2. In the order dated 05.07.2022 an error have crept into. In that order Mr. S.K. Pradhan, learned counsel appearing for the appellant had been shown inadvertently as the counsel for the respondent. The said error stands corrected. Mr. S.K. Pradhan, learned counsel appeared for the appellant on that day, i.e., 05.07.2022.

3. All these appeals being MATA No.98 2019, MATA No.97 of 2019 and MATA No.99 of 2019 are combined for disposal by a common judgment in view of the subsequent events and the mediated consensus reached by the parties.

4. Heard Mr. S.K. Pradhan, learned counsel appearing for the appellant and also heard Mr. T. Mishra along with Mr. A.K. Nandy, learned counsel appearing for the respondent.

5. We had reflected in the order dated 05.07.2022 that the appellant has contracted second marriage in subsistence of his first marriage which he intended to be dissolved and for that purpose he instituted the matrimonial suit being Civil Proceeding No.195 of 2016.

6. Faced with such stuck fact of life, even the respondent has conceded that the decree of divorce be passed as no space survives for the reconstruction of the marriage, because of the said second marriage contracted unlawfully. We had requested Mr. Pradhan, learned counsel for the appellant to take instruction from the appellant in respect of the permanent alimony in the perspective of the position, as stated before, taken by the respondent.

7. Today Mr. Pradhan, learned counsel for the appellant has submitted that alimony as indicated by this Court to the extent of Rs.50,00,000/- (Rupees fifty lakhs) has been acceded to, by the appellant in MATA No.98 of 2019, subject to that a time span of six months be provided for payment of the said amount.

8. Learned counsel for the respondent has acceded to the quantum. As such the marriage between the appellant and the respondent (in MATA No.98 of 2019) stands dissolved. The appellant is directed to pay a sum of Rs.50,00,000/- (Rupees fifty lacs) altogether as the lump sum alimony to the respondent in the mode as provided hereafter.

9. It is further directed that a sum of Rs.20,00,000/- be paid by the appellant within two months from today to the respondent in the form of Demand Draft/Banker's Cheque. The charges for such Banker's Cheque or Demand Draft shall be borne by the appellant. The said instalment be deposited before the Registrar (Judicial) of this Court within two months. The rest of the amount, i.e., Rs.30,00,000/- be paid at a time or by three instalments within next four months from the day of expiry of the time of two months stipulated by this Court for payment of the amount of Rs.20,00,000/- to the respondent.

10. It may be noted that the appellant filed Civil Proceeding No.195 of 2016 for granting the divorce whereas the respondent had instituted a counter claim for restitution of conjugal rights which was however had not been registered separately but was adjudicated along with C.P.No.195 of 2016. The suit for dissolution of marriage by decree of divorce as instituted by the appellant being C.P.No.195 of 2016 has been dismissed by the judgment dated 08.07.2019 which is under challenge in the appeal being MATA No.98 of 2019. However, the counter claim of the respondent has been allowed by directing the appellant herein to reconstitute the conjugal rights. It may also be noted

that the appellant herein also instituted one petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights being C.P.No.162 of 2014, two years before the institution of the suit for dissolution of marriage. As consequence of the filing of the Civil Proceeding No.195 of 2016, the matrimonial suit being C.P.No.162 of 2014 should have been allowed to have been withdrawn but the Judge, Family Court did not allow the application for withdrawal, as stated by Mr. Pradhan, learned counsel for the appellant. But it has been reiterated by Mr. Pradhan, learned counsel for the appellant that despite such prayer to treat said application as withdrawn, no effective order had been passed by the Judge, Family Court. On the contrary, C.P.No.162 of 2014 was tied with C.P.No.195 of 2016 and the counter-claim of the respondent.

11. Now on mediated consensus, we allow the matrimonial suit being C.P.No.195 of 2016 in terms of the condition as made above by dissolving the marriage between the parties forthwith. The parties are relieved from their matrimonial obligations forever. They will be entitled to live their independent life without any interference from each other.

12. It has been stated by the learned counsel for the respondent that the respondent is living with her daughter. Both the matrimonial suits, one is the counter-claim filed by the respondent herein for restitution and the other is the matrimonial suit being C.P.162 of 2014 filed by the appellant for restitution of conjugal rights are dismissed, in view of the above consensus reached between the parties. The appeals being MATA No.97 of 2019 and MATA No.99 of

2019 have been filed challenging the decree of conjugal rights issued in the said counter-claim and the matrimonial suit being C.P.No.162 of 2014 vide the common judgment dated 08.07.2019. *Per consequenti*, the counter-claim of the respondent and the suit being C.P.No.162 of 2014 are dismissed on the mediated consensus, all the appeals are allowed.

13. The Registry is directed to prepare the decree only after the payment of permanent alimony is made in the mode as aforementioned, by the appellant, to the Registrar (Judicial) of this Court. It has been mutually agreed that the appellant shall withdraw the writ petition being W.P.(C) No.18173 of 2016, as the said writ petition has become infructuous for this common order.

14. The dissolution of the marriage will come into effect, *de jure* with effect from the date of decree. After the decree is drawn, LCRs be returned.

Accordingly, all appeals are disposed of.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge