

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.355 of 2012

Manoj Kumar Jha, S/O Sri Dhaneshwar Jha, Resident of Gaibipur, P.S- Benipatti, District- Madhubani, Presently At 222, Coy, Asc Sup Type "G", Pin- 905222 C/O 56, APO.

... .. Appellant/s

Versus

Deepa Choudhary, W/O Manoj Kumar Jha And D/O Shri Nirmal Chandra Choudhary Resident Of Village- Pindaruch, P.S- Hayaghat, District- Darbhanga, Bihar Presently At Flat No. 403, Ruchi Apartment, Mahesh Nagar, P.S- Patliputra, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. J.S. Arora, Senior Advocate Mr. Ratnesh Kumar, Advocate
For the Respondent/s	:	Mr. Sushil Kumar Jha, Advocate Mr. Ram Bahadur Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

46 11-09-2023 The present Misc. Appeal has been filed by the appellant against the judgment dated 25.04.2012 and decree dated 14.05.2012 passed by learned Additional Principal Judge, Family Court, Patna in Matrimonial Case No. 599 of 2011 whereby and whereunder divorce petition filed by the appellant under Section 13 (1) (i-a) of Hindu Marriage Act has been dismissed.

2. Today, the appellant-husband and the respondent-wife along with their respective counsels are present before this Court.

3. We have heard the learned counsel for the



respective parties.

4. A joint compromise petition dated 17.07.2023 under Order XXIII Rule 3 of the Code of Civil Procedure has been filed by the parties seeking dissolution of marriage by mutual consent, which is taken on record.

5. The signatures of both the parties, who are present before us, have been obtained in the order-sheet of the present Miscellaneous Appeal to the extent that there is settlement among the respective parties. Both the parties have been identified by their respective Advocates.

6. From the averments made in the joint compromise petition, it appears that both the parties are ready to get the marriage dissolved by mutual consent on the terms and conditions mentioned in paragraph 5 of the said petition. It would be necessary to reproduce paragraph 5 of the said petition :-

“5. That in the aforesaid facts and circumstances the parties have agreed for the following terms and conditions to get the marriage dissolved by mutual consent.

i. That the marriage between the parties that is appellant and respondent has to be dissolved by mutual consent by the decree of divorce with the consent of both the parties.

ii. That after the dissolution of marriage both the parties shall be at liberty to lead their respective life in the manner they want



without any interference of each other in their private and social life.

iii. That out of two children named above the daughter Nupur Jha has already attained majority and son Mohit Jha is about to attain majority. Both the parties has agreed that children will remain with the mother i.e. the respondent. Major children have liberty to make any relation with applicant, if so require.

iv. That the appellant shall pay total sum of Rs.57,00,000/- (Rupees fifty seven lakhs only) to the respondent wife Deepa Jha in three instalments. Out of the aforesaid amount the first instalment of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) be being deposited in Court in form of demand draft issued by ICICI Bank drawn in favour of DeepaJha amounting to Rs. 12,00,000/- (Rupees twelve lakhs only) bearing number 501604 dated 17 July 2023 and Rs. 13,00,000/- (Rupees Thirteen Lakhs Only) bearing number 501604 dated 17 July 2023 to be paid to the respondent while passing the order on the joint petition.

v. That balance amount of Rs.32,00,000/- (Rupees Thirty Two Lakhs Only) shall be paid in 3 months from the date of passing order in two equal instalments of Rs.16,00,000/- (Rupees Sixteen Lakhs Only) by the way of bank draft/Cheque/NEFT/RTGS.

vi. That the appellant shall make an endeavour to make the payment of balance amount as early as possible.

vii. That on payment of aforesaid amount as permanent alimony, there shall be no claim of the respondent either towards interim maintenance or under any other head or in



any eventuality. Hereafter, this amount shall include the maintenance and all expenditure of both the children also.

viii. That hereafter in no case in any circumstances or in any eventuality the respondent and her both the children shall be entitled to get or demand any money or anything from the appellant.

ix. That the aforesaid sum of money shall be treated as full and final settlement of all the possible claims and demands of the respondent and both the children.

x. That there is no other amount or article to be exchanged between the parties.

xi. That the respondent has assured that there is no other case or complaint filed anywhere against the appellant and his family members and if any such case or complaint is revealed then in the light of this joint petition the same shall be treated as become infructuous and would be liable to be dismissed out rightly.

xii. That it has been agreed by the respondent that the joint petition and the Order passed by the Hon'ble Court shall be communicated to the army authorities for needful documentation purpose as a proof of mutual consent of the parties for dissolution of marriage by the decree of divorce.

xiii. That the respondent wife shall be remained the single parent of the children and the appellant shall not interfere into the social, personal, educational life of the respondent wife and the two children, Similarly, the respondent wife shall not interfere with the social, personal life of the appellant husband.

7. In terms of settlement between the parties, towards



permanent alimony, two demand drafts bearing Demand Draft No. 501604 of Rs. 13 lakhs and Demand Draft No. 501605 of Rs. 12 lakhs both dated 17.07.2023 issued by ICICI Bank, respectively, amounting to a total of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) have been drawn in favour of Respondent-Deepa Jha and the same has been handed over to her in the Court.

8. In the presence of the learned counsel for the parties, we asked the appellant-husband and the respondent-wife as to whether they have signed the compromise petition on their own volition uninfluenced by any fraud, undue influence, misrepresentation or exertion of any sort. Their answer is that they have signed the compromise petition voluntarily.

9. Having considered the matter thoughtfully, we are of the view that the compromise between the parties meets the requirement of law and is in their interest.

10. Accordingly, the judgment dated 25.04.2012 and decree dated 14.05.2012 passed in Matrimonial Case No. 599 of 2011 are set aside. The marriage between the parties is dissolved in terms of compromise entered into between the parties as mentioned above.

11. Registry is hereby directed to draw a decree of



divorce accordingly. The compromise petition will form part of the decree.

12. This Misc. Appeal stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Himanshu/-
Ashish/-

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