

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.306 of 2015

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Nita Devi Wife of Kapildeo Chaudhary, Resident of Village -Mangarbigha
Police Station - Giriyak, District - Nalanda.

... .. Appellant/s

Versus

Kapildeo Chaudhary Son of Late Darogi Chaudhary, Resident of Village
-Nangarbigha Police Station - Giriyak, District -Nalanda at present posted as
Branch Manager, Madhya Bihar Gramin Bank Rupal Nawada, District -
Nawada.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rabindra Prasad Singh, Advocate
For the Respondent/s : Mr. Mrigendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 04-01-2023

Heard learned Advocate for the appellant/wife

and Mr. Hansh Raj for the respondent/husband.

A divorce petition was filed by the respondent on
grounds of cruelty, desertion and adultery.

The Court has granted divorce but without
discussing the evidence of the parties.

It appears from the pleadings that the respondent
suspected infidelity. He also suffered physical and verbal
onslaught by his wife at his place of work, and that also
without any reason. The physical relationship between the



spouses were non-existent but we find from the observations of the Family Court that two children were born out of the wedlock and both of whom have become majors.

The Family Court has adopted a short cut approach of only stating that there is no contradiction in the statement of the witnesses offered on behalf of the respondent/husband, who had filed the petition for divorce.

We do not get any idea about the case.

We also find that there is no appearance on behalf of the appellant/wife before the Court below.

We find that the Judgment is absolutely laconic, even under the circumstance when an *ex-parte* Judgment has been passed for the wife not having participated in the proceedings.

Be that as it may, we do not even get to know from the Judgment whether all efforts were exhausted to ensure the presence of the wife in the proceeding before the Court proceeded to hear *ex-parte*.



For the reason of the Judgment being absolutely laconic, without any reason and without discussing even the evidence of the witnesses offered on behalf of the husband, we set it aside.

The matter is remanded to the Family Court for writing out a fresh Judgment but only after giving opportunity to the wife to put in her evidence and the evidence of other witnesses on her behalf, if so desired, giving opportunity to the husband to cross-examine such witnesses and thereafter recording the statement of the husband in case he desires to put in further evidence in view of the appearance of the wife before the Court.

The Court shall pass a final Judgment giving reasons in support thereafter.

The entire exercise must be concluded within a period of four months, to be counted from the date of receipt of the production of a copy of this order.

Let the records of this case be immediately dispatched to the learned Principal Judge, Family Court,



Nalanda at Bihar Sharif in Divorce Case No. 82 of 2014 for the needful.

We further clarify that we have not expressed any opinion on the merits of the case of the respective parties.

(Ashutosh Kumar, J)

(Satyavrat Verma, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
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