

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.70 of 2024

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Rohit Kumar Singh Son of Sri Vinodkumar Singh, Resident of Village and Post Office-Basaniya, Police Station-Laukaha, District-Madhubani.

... .. Appellant/s

Versus

Supriya Kumari wife of Rohit Kumar Singh, daughter of Sri Arbind Kumar Singh, Resident of Village-Bokatha, Police Station and Block-Suppi, District-Sitamadhi.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Murlidhar Mishra
For the Respondent/s : Mr. Devendra Kumar

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
And
HONOURABLE MR. JUSTICE S. B. PD. SINGH
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 26 -11-2024

Interlocutory Application No. 1 of 2024

This Interlocutory Application has been filed by the appellant on 10-01-2024 under Section 5 of the Limitation Act, 1963 for condoning the delay of 21 days in filing the instant Miscellaneous Appeal.

2. Considering the averments made in the interlocutory application, sufficient cause have been shown which prevented the appellant from filing the Miscellaneous Appeal in time.

3. Accordingly, this interlocutory application is

allowed and the delay of 21 days in the filing of the Miscellaneous Appeal is condoned.

4. Accordingly, I.A. No. 1 of 2024 stands allowed.

5. Heard the parties.

6. The present appeal has been filed under Section 19(1) of the Family Court Act, 1984 impugning the judgment dated 03.11.2023 passed by learned Principal Judge, Family Court, Madhubani in M.M Case No. 190 of 2022, whereby the learned Principal Judge has rejected the petition of the appellant which was filed under Section 9 of the Hindu Marriage Act, 1995 for restitution of conjugal rights on the ground of lack of jurisdiction to try the present suit since opposite party was residing at Delhi which was not within the jurisdiction of the Court below.

7. The case of the appellant as per petition filed before the Family Court is that the marriage of the appellant with opposite party was solemnized on 07.05.2021 as per Hindu Rights and Customs at Sitamarhi and after marriage, the opposite party stayed

in her matrimonial house at Madhubani for three months. During her stay in her matrimonial house, she used to quarrel with her in-laws family members. On 30.08.2021, for a petty dispute, she left her matrimonial house along with gold ornaments and clothes which were given at the time of her marriage by the appellant's side and started staying at her parents' house. The appellant, thereafter filed an Informatory Petition before learned A.C.J.M, 1st, Jhanjharpur on 21.04.2022. The appellant made several attempts to reconcile the matter with the opposite party and resume matrimonial relationship with her, but all went in vein. Ultimately, the appellant filed a petition before the Principal Judge, Family Court under Section 9 of the Hindu Marriage Act for restitution of conjugal rights which was rejected. Hence, the present Miscellaneous Appeal.

8. In pursuance to the direction of this Court, both the appellant and opposite party are present in person before this Court. The appellant is ready to keep his wife-

opposite party with full dignity and honour but the wife-opposite party is not ready to live with the appellant and submits that appellant has extra-marital affairs and he is habitual in assaulting her. She further submits that due to obnoxious behaviour of the appellant, she is taking medicines of depression and anxiety for the last 18 months. The opposite party, in any circumstance, is not ready to live with the appellant, however, the appellant is ready to live with his wife-opposite party.

9. Section 19 of the Hindu Marriage Act prescribes the jurisdiction of the Court to decide a matrimonial suit.

Section 19 of the Act reads as under:-

“19. Court to which petition shall be presented.-

Every petition under this Act shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction

(i) the marriage was solemnised, or

(ii) the respondent, at the time of the presentation of the petition, resides, or

(iii) the parties to the marriage last resided together, or

(iiia) in case the wife is the petitioner, where she is residing on the date of presentation of the petition, or

(iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.

10. After going through the facts of the present case, it clearly transpires that the marriage between the parties has not been solemnized in the territorial jurisdiction of Madhubani Civil Court as per plaint itself. It is also averred by the learned counsel for the appellant that the respondent stayed at his house only for three months and thereafter, she has continuously been staying at her parents' house at Delhi.

11. In that view of the matter, the present appeal is disposed of with a direction to the appellant as well as opposite party to file appropriate application before appropriate forum. On filing such an application, the

Court below shall pass orders, in accordance with law.

Both sides may also file a joint petition under Section 13(B) of the Hindu Marriage Act for decree of divorce on mutual consent and in that case the learned Principal Judge will decide the matter at the earliest, in accordance with law.

12. Accordingly M.A. No. 70 of 2024 stands disposed of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, J)

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AFR/NAFR	NAFR
CAV DATE	21/10/2024
Uploading Date	28/11/2024
Transmission Date	N/A