

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1374 of 2016

1. Kripa Shankar Dwivedi Son of Awadhesh Dubey, Resident of Village- Ojha Bigha, Police Station- Kaler, District- Arwal.

... .. Appellant/s

Versus

Seema Devi, D/o Late Devendra Pandey, Resident of Nathopur, Parsa Bazar, Police Station- Parsa, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Umesh Kumar, Advocate Mr. Abhishek Anand, Advocate Mr. Shubhankar Raj, Advocate Mr. Roy Birendra, Advocate Ms. Sristy Patel, Advocate
For the Respondent/s	:	Mr. Sunil Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

and

HONOURABLE MR. JUSTICE DR. ANSHUMAN

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE DR. ANSHUMAN)

Date : 16-09-2025

Heard learned Counsel for the appellant and
learned Counsel for the respondent.

2. The present memorandum of appeal has been preferred against the order dated 28.10.2016 passed by Principal Judge, Family Court, Jehanabad, in Miscellaneous Case No.32 of 2011 by which learned Trial Court has restored the two matrimonial cases after setting aside the order and decree dated 16.05.2008 and 22.05.2008 respectively passed by Principal Judge, Family Court, Jehanabad, in Matrimonial



Case No.70 of 2007 as well as order and decree dated 10.12.2009 and 06.01.2010 respectively, passed by Principal Judge, Family Court, Jehanabad, in Divorce Case bearing Matrimonial Case No.31 of 2009.

3. Learned Counsel for the appellant submits that the appellant has filed Matrimonial Case No.70 of 2007 under Section 9 of the Hindu Marriage Act for restoration of conjugal life which was allowed in favour of the appellant vide order and decree dated 16.05.2008 and 22.05.2008 respectively, by which respondent was directed to live with the appellant, but she did not agree to live with the appellant. Thereafter, the appellant has filed Matrimonial Case No.31 of 2009 for grant of decree of divorce against the respondent on the ground of desertion which was allowed in his favour vide order and decree dated 10.12.2009 and 06.01.2010 respectively.

4. Learned Counsel for the appellant further submits that after waiting period of appeal the appellant solemnized marriage with one Sweta Kumari on 07.10.2010 and now the appellant has two children, one son and one daughter with Sweta Kumari. He further submits that after marriage of appellant with Sweta Kumari the respondent



(Divorcee) filed a Misc. Case No.32 of 2011 on 07.09.2011 for setting aside the orders and decrees passed in Matrimonial Case No.70 of 2007 (for restitution) and Matrimonial Case No.31 of 2009 (divorce case) which was allowed vide order dated 28.10.2016 which is the impugned order in the present appeal.

5. Learned Counsel for the appellant further submits that in addition to these cases, respondent has also filed Complaint Case No.65 of 2011 before the S.D.J.M., Arwal. Learned Counsel for the appellant submits that in the present Misc. Appeal vide order dated 02.03.2017 *ad interim stay* was granted in his favour vide order dated 02.03.2017, by which the order dated 28.10.2016 passed in Misc. Case No.32 of 2011 was stayed. He further submits that litigation between the parties was further carried in Criminal Revision No.1238 of 2016 in which vide order dated 15.03.2023 passed by this Hon'ble Court, all disputes were settled upon one time payment of Rs.17,00,000/- (rupees seventeen lakhs) by the petitioner of Criminal Revision (present appellant) to O.P. No.2 of the said Criminal Revision (present respondent). He has placed web copy of the said order before this Court. The operative part of the order states as follows:



“Learned counsel for the petitioner submits that in compliance of order dated 14.03.2023, a counter-affidavit has been filed by O.P. No.2 by which it transpires that she is agreed to settle all the disputes in one time upon payment of Rs. 17 lacs from the petitioner. In the affidavit, it has been categorically mentioned that the said amount be transferred in the saving account of O.P. No.2 bearing Account No. 37707852075 of SBI, Sipara Branch, Patna.

It has also been accepted by O.P. No.2 that she will do all the needful to close Complaint Case No. 65 of 2011 and the Misc. Case No. 32 of 2011 pending before the court of learned S.D.J.M., Arwal and learned Principal Judge, Family Court, Jehanabad.

Learned counsel for petitioner submits that he has filed a Misc. Appeal No. 1374 of 2016 before this Hon'ble Court in which stay has been granted in Misc. Case No. 32 of 2011. Counsel for petitioner submits to this Hon'ble Court that a direction may be given to O.P. No.2 that at the time of hearing Misc. Appeal No. 1374 of 2016, she shall support and do all needful so that the entire dispute that is



Matrimonial Case No. 70 of 2007 and Divorce Case bearing Matrimonial Case No. 31 of 2009 may also be closed. Counsel for O.P. No.2 is agreed for the same.

*In this view of the matter and on the basis of the affidavit and submission made, this case is **hereby settled** and there is no dispute from any corner left between the parties. Both parties assure to the court that they shall respect all undertakings/affidavits before this Court, by their counsel.*

It is made clear that the said amount Rs. 17 lacs shall be paid in the account of O.P. No.2 by the petitioner within 4 months in installment. It is also made clear that till final payment, he shall deposit monthly Rs.10,000/-. The process of closing the case shall be started upon receiving the amount in the account. O.P. No.2. It has assured by O.P. No.2 that in no way, she shall proceed in any manner in the complaint case against petitioner before the learned S.D.J.M., Arwal.”

6. Learned Counsel for the respondent submits that the full and final settlement has already taken place and as per pleading that after decree of divorce appellant entered into marriage and respondent also do not want to pursue the said



litigation.

7. Both Counsel for the appellant and Counsel for the respondent submit to this Court that the order of divorce may be revived as settlement took place between the parties and respondent has no objection for the same. Counsel for the respondent also submits the revival of said order of divorce be made by setting aside the order dated 28.10.2016 passed in Miscellaneous Case No.32 of 2011, she (respondent) has no objection for the same.

8. After hearing the parties, it transpires to this Court that the parties have reached on the settlement and jointly prayed that the decree of divorce may be approved as parties are not interested to live together and full and final settlement amount has already been received by the respondent.

9. In the light of the submissions made, without entering into merit and demerit of the appeal, we hereby approve the order and decree for divorce dated 10.12.2009 and 06.01.2010 passed by Principal Judge, Family Court, Jehanabad in Matrimonial Case No.31 of 2009 after setting aside the order dated 28.10.2016 passed by Principal Judge, Family Court, Jehanabad in Misc. Case No.32 of 2011.



10. It is made clear that this order has been passed only due to the reason that parties have reached on settlement and they do not want to pursue their litigations further.

11. With the aforesaid observation, the present miscellaneous appeal is hereby allowed.

Bibek Chaudhuri, J: I agree

(Bibek Chaudhuri, J)

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	11.09.2025
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