

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.594 of 2017**

Dr. Vikas Kumar Son of Dr. Balram Prasad, Resident of Mohalla Chandmari Road, Azad Path, P.O. and P.S. Kankarbagh, District Patna.

... .. Appellant/s

Versus

Smt. Rekha Kumari Wife of Dr. Vikash Kumar, daughter of Sri Dashrath Prasad, Child Development Project Officer, Islampur, P.S. Islampur, District Nalanda, at present resident of Shanti Niwas, Mohalla Naya Tola, Kumhrar, P.O. Bahadur Housing Colony, P.S. Agamkuan, District Patna.

... .. Respondent/s

**Appearance :**

|                      |   |                                  |
|----------------------|---|----------------------------------|
| For the Appellant/s  | : | Mr. Rajesh Ranjan, Advocate      |
|                      |   | Mr. Shakti Suman Kumar, Advocate |
| For the Respondent/s | : | Mr. Bharat Lal, Advocate         |

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA**  
**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA)**

**Date : 21-01-2025**

The present Miscellaneous Appeal under Section 19(1) of the Family Courts Act, 1984 has been filed by the appellant- Dr. Vikash Kumar, the husband of the sole respondent - Smt. Rekha Kumari against the judgment and decree dated 03.06.2017 passed by learned Additional Principal Judge, Family Court, Patna in Matrimonial (Divorce) Case No.325 of 2012 whereby and whereunder the said divorce petition filed by the appellant for decree of divorce on the ground of desertion and cruelty under Section 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955 has been dismissed on contest with cost.



2. We have heard learned counsels for the respective parties and perused the records.

3. The parties were married as per the Hindu rites and customs on 03.07.2003 and have been blessed with one son from their wedlock on 02.08.2005. However, the marital relationship did not sustain for long and a number of litigations were filed on behalf of respondent–wife. The matrimonial suit for dissolution of marriage was filed by the respondent-wife vide Matrimonial Suit No.191 of 2006 and Matrimonial Case No.325 of 2009 which were dismissed due to non-prosecution. The parties began living separately since 2009. The criminal cases for allegation of dowry torture were also filed by the respondent–wife against the appellant. Since the date of separation, their son has been residing with respondent-wife. The appellant-husband filed a petition for divorce being Matrimonial (Divorce) Case No.325 of 2012 under Section 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955 before the Family Court, Patna seeking divorce on the ground of cruelty and desertion. However, the plea of cruelty and desertion did not find favour with the Trial Court. Resultantly, the said divorce petition was dismissed on 03.06.2017. Hence, the present appeal.



4. Now pending appeal, both the parties have appeared personally and expressed their desire to a decree for divorce on mutual consent as they have realized that it is no longer possible for them to live together as husband and wife. The appellant is a doctor running his clinic and the respondent-wife is employed as Child Development Project Officer (C.D.P.O.). A sum of Rs.25 lakhs was offered by the appellant-husband as One Time Settlement towards maintenance and care of his son which he (son) can utilize for his higher education and as security till he becomes financially independent. Out of the total aforesaid amount, Rs.10 lakhs shall be paid by the appellant to the respondent-wife within four weeks from this order/judgment and remaining amount of Rs.15 lakhs shall be paid within six months from the date of this order/judgment. The said proposal has been accepted by the respondent-wife.

5. In view of the aforesaid facts and circumstances and submission of learned counsel for the parties, this Miscellaneous Appeal is disposed of in terms of their compromise and the marriage solemnized between the appellant and the respondent on 03.07.2003 according to the Hindu rites and customs is dissolved by decree of divorce by mutual consent. There shall be no order as to cost.



6. The appellant shall pay the amount as stated above towards permanent alimony to the respondent-wife within the time stipulated above. The Registry to draw a decree, accordingly.

7. The present decree shall be effective from the date of payment of total amount as directed above.

**(P. B. Bajanthri, J)**

**(Sunil Dutta Mishra, J)**

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