

**HIGH COURT FORM NO.(J) 2
HEADING OF JUDGMENT IN ORIGINAL SUIT/CASE
IN THE COURT OF THE ADDL. DISTRICT JUDGE -2(FTC) ,
TINSUKIA**

District : Tinsukia
Present : Sri B. Sutradhar(AJS),
Addl. District Judge-2,
Tinsukia.

**Title Suit (Matrimonial) Case No. 08/2021
U/s. 28 of Special Marriage Act.**

Smt. Suman Kumari(Agarwal),
W/o. Sri Alekh Agarwal,
D/o. Lt. Shambhu Nath Saharma,
R/o. Tinkonia, Near Hotel Mayur,
P.O, P.S. & Dist. Tinsukia, Assam.

-Versus -

Sri Alekh Agarwal,
S/o Late Bijoy Kumar Agarwal,
R/o. Chaliha Nagar,
P.O, P.S. & Dist. Tinsukia, Assam

.....Petitioners.

This suit came for final hearing on : **13/07/2021.**

Date of Judgment : 14/07/2021.

Appeared:

For the Petitioners : Mrs. U. Verma & Sr. R.K. Prasad.....Advocates,

And having stood for consideration to this day the Court delivered the following Judgment.

J U D G M E N T

- 1.** This suit is filed by petitioners, namely, Smt. Suman Kumari(Agarwal), and Sri Alekh Agarwal mutually U/s. 28 of the Special Marriage Act, 1954 for grant of decree of divorce by mutual consent dissolving the marriage registered on 14.06.2019 vide Marriage certificate being no. 473/2018 before the Marriage Officer at Tinsukia.

- 2.** In the instant case, as per provision of Sec. 28(2) of Special Marriage Act, the record has been put up for hearing after completion of six months.

- 3.** The brief case of the petitioner is that the petitioners married each other on 14th June, 2019 under Special Marriage Act, 1954 and their marriage was registered before the Marriage officer, Tinsukia and as a token of their marriage, the Marriage Officer also issued a certificate, the same is filed and marked as Document No.1. The petitioners initially started to live separately from each other with mutual consent and understanding, but thereafter also due to differences in temperament, they could not live together, That no issue was born out of their wedlock. That as both the petitioners are unable to reside together, hence, they have filed this present mutual divorce petition. That the Petitioner no. 1 waives her right of claiming permanent alimony, compensation or maintenance from Petitioner no. 2 and she shall not be entitled to claim maintenance or compensation in future. There is no chance of re-union between the petitioners, to lead peaceful life in future. The petitioners have prayed for mutual divorce and also prayed to issue precept to the Marriage officer, Tinsukia to cancel the Marriage certificate being no. 473/2018 dated 14/06/2019. The

petitioners shall not have any claim against each other after the divorce. The petitioner shall be at liberty to marry other person as per their choice after the divorce. The petition has been filed without any force, undue influence fear on either of the parties to present this petition. Thus, on 06/01/2021, the Petitioners had mutually filed this suit seeking dissolution of marriage solemnized on 14.06.2019 under Special Marriage Act, 1954 with a decree of divorce and prayed to issue precept to the Marriage officer, Tinsukia to cancel the Marriage certificate being no. 473/2018 dated 14/06/2019. The suit was fixed for hearing after completion of six months as per provision of sec. 28(2) of Special Marriage Act.

4. The petitioners after expiry of waive period have adduced evidence of PW.1, Smt. Suman Kumari(Agarwal) and PW.2, Sri Alekh Agarwal and also filed copy of Marriage Certificate, Document 1.
5. Today, I have gone through the evidence of the petitioners. The petitioners have reiterated the same facts in their evidence-in-affidavit, as stated in their petition. It is stated that the petitioners are residing separately for more than two years and they are unable to reside together as husband and wife, as such, they have presented the present petition for dissolving their marriage by way of decree of divorce, on mutual consent.
6. After carefully going through the evidence-in-affidavit of PW.1 & PW.2, it is seen that the petitioners are residing separately since more than two years and they are unable to reside together, hence prayed for mutual divorce and prayed to issue precept to the Marriage officer, Tinsukia to cancel the Marriage certificate being no. 473/2018 dated 14/06/2019.

- 7.** It is not generally expected in our society that any married couple interested to file case of mutual divorce without any reason. Today, after going through the evidence adduced by the petitioners, I find that the petitioners have proved their case. I am satisfied that the marriage between the petitioners have irretrievably broken down and there is no possibility of reconciliation between them. There is nothing to discard the evidence of the petitioners. Therefore, the petitioners deserve to be given a decree, as prayed for. Accordingly, the marriage between the petitioner no. 1, Smt. Suman Kumari(Agarwal), and petitioner no. 2, Sri Alekh Agarwal stands dissolved. The prayer for divorce is granted. The petitioners have not prayed for any alimony, therefore, there will be no order to that effect.
- 8.** Prepare a decree accordingly.
- 9.** The suit is disposed of on mutual consent without cost.
- 10.** Given under my hand and seal of this Court on this the 14th day of July, 2021.

Dictated and corrected by me.

(B. Sutradhar)
Addl. District Judge-2(FTC),
Tinsukia.

(B. Sutradhar)
Addl. District Judge-2(FTC),
Tinsukia