

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

District : Tinsukia

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

**Title Suit (M) Case No. 140 of 2021**

On Monday, the 2<sup>nd</sup> day of May, 2022

Smt. Sewali Das,  
D/o. Late Bawri Das,  
R/o Bahadur Chariali,  
Naba Jagriti High School,  
Dist. Tinsukia, Assam.

..... Petitioner no. 1.

Sri Dinesh Das,  
S/o. Late Yogesh Das,  
R/o 700 No. Gate, IOC,  
Near Commerce College,  
P.S. and Dist. Tinsukia(Assam).

..... Petitioner no. 2.

This suit coming on for final hearing on 30.04.2022 in the presence of :

Smt. H. Deka Advocate..... for the Petitioner no. 1.

Smt. A. Poddar (Agarwal)

Advocate..... for the Petitioner no. 2.

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 petitioner no. 1, namely, Smt. Sewali Das, and Petitioner no. 2, Sri Dinesh Das jointly U/s. 13B(II) of the Hindu Marriage Act, 1955 for grant of decree of divorce by dissolving the marriage of the Petitioner no. 1 with the Petitioner no. 2 solemnized between them on 11.09.2010 at 700 No. Gate, IOC, Near Commerce College, Tinsukia according to social customs and rituals.
2. The brief case of the petitioners is that after the marriage the petitioners started living together as husband and wife at the house of the petitioner no. 2. That out of their wedlock a male child was born on 28.07.2011 namely, Om Das, who is presently 10 years old and living with his father, i.e the petitioner no. 2.
3. That the parties could not adjust with each others due to temperamental differences and their marriage has broken down irretrievably and it became impossible between the parties to live together as husband and wife anymore.

4. That in spite of efforts of reconciliation between the parties, to continue the present marriage have failed and there are no further chances of reconciliation between the parties any more.
  
5. That the parties are residing separately since 2019 and there is no cohabitation between the parties anymore. Hence, the parties have decided to dissolve the marriage legally through a decree of mutual consent. The parties have settled all their claims, counter claims etc. on the following terms & conditions:
  - (i) That the child is staying with the petitioner no. 2. The petitioner no. 1, i.e the mother will visit the child once in every month.
  - (ii) That the petitioner no. 1 will bring back her stuffs that are the streedhans from the house of the Petitioner no. 2.
  
6. The Petitioners have submitted the following stuffs/documents in support their case :
  - (i) School Documents of the Petitioner No. 1,
  - (ii) Clothes of the Petitioner No. 1,
  - (iii) Fridge (Rs. 1200/- will be paid to the Petitioner No. 2 by the Petitioner no. 1 at the time of bringing the fridge).

(iv) 3 Nos. of Mattresses (Sofa Set) (2 Small and 01 Big Sizes)

(v) Bed (sheet) .. 1 No.

7. As such, the petitioners have prayed for dissolution of marriage and a decree of divorce of marriage as per the provisions of section 13B(II) of the Hindu Marriage Act, 1955.

8. Upon considering the material on record following issues were framed as mentioned here-in-under :

(i) Whether the Joint Petitioner have been staying separately since 2019?

(ii) Whether the Petitioners are entitled to get decree of divorce on mutual consent as prayed for?

(iii) What relief or reliefs, the parties are entitled to under the Law and fact?

9. I have heard the Ld. Counsels for the petitioners and gone through the material evidence on record to decide the suit.

**Discussion, Decision & Reasons thereof:**

10. The 1<sup>st</sup> Petitioner, Smt. Sewali Das and 2<sup>nd</sup> Petitioner, Sri Dinesh Das in their joint Evidence on Affidavit testified in a similar and identical manner as that of the contents of their joint petition, which is narrated above, as such, the evidence on affidavit is not repeated here for sake of brevity.

**O R D E R**

11. Today, after going through the evidence adduced by the petitioners jointly, I find that the petitioners have proved their case. I am satisfied that the marriage between the 1<sup>st</sup> Petitioner, Smt. Sewali Das and 2<sup>nd</sup> Petitioner, Sri Dinesh Das have irretrievably broken down and there is no possibility of reconciliation between them. There is nothing to discard the evidence on affidavit of the petitioners and the issues are decided affirmative. Therefore, the petitioners deserve to be given a decree, as prayed for. In view of the above, the prayer for divorce is granted. Accordingly, the marriage solemnized between the 1<sup>st</sup> Petitioner, Sewali Das and 2<sup>nd</sup> Petitioner, Sri Dinesh Das on 11.09.2010 stands dissolved U/s. 13B(II) of the Hindu Marriage Act 1955.
12. Prepare a decree accordingly.

**13.** The suit is disposed of, on mutual consent without cost.

Given under my hand and seal of this Court on this the 2<sup>nd</sup> day of May, 2022.

Dictated and corrected by me.

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

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