

**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. 122 of 2021**

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

**Sri Nupu Phukan (38 years),**

S/o. Sri Vivekananda Phukan,

R/o. Borguri Village,

P.O. Borguri,

P.S & District – Tinsukia (Assam).

.....1<sup>st</sup> Petitioner.

Vs.

**Smt. Parthana Gohain, (36 years),**

W/o. Sri Nupu Phukan,

D/o. Sri Janak Gohain,

R/o. Chabua Mereli Pather,

P.O & P.S – Chabua,

District – Dibrugarh (Assam).

.....2<sup>nd</sup> Petitioner.

This suit coming on for final hearing on 22.04.2022 in the presence of :

For the 1<sup>st</sup> Petitioner : Sri B. Thapa, Advocate.

For the 2<sup>nd</sup> Petitioner : Sri D. Bose, Legal Aid Counsel.

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, Sri Nupu Phukan and Smt. Parthana Gohain, jointly U/s. 13 B of the Hindu Marriage Act, 1955 for grant of decree of divorce by dissolving the marriage of the 1<sup>st</sup> Petitioner with the 2<sup>nd</sup> Petitioner solemnized between them on 29<sup>th</sup> April, 2013 at Borguri village according to Traditional Hindu Rites.
2. The brief case is that the 1<sup>st</sup> petitioner married the 2<sup>nd</sup> petitioner and after solemnization of the marriage they started to live together at Borguri village. Both of them continued their conjugal life happily for a period of 4/5 years and they were blessed with a female child named, Miss Anshumita Phukan who born on 30.09.2014 but after the birth of the child misunderstanding crept up between them.
3. That due to differences in temperament, habits, thoughts, increasing incompatibility the

relationship between them deteriorated day by day, consequently frequent quarrels resulted in between them with several reconciliation which did not last any length of time. Finally in order to avoid further deterioration, the petitioners decided to live separately out of their free will and accordingly, the 2<sup>nd</sup> Petitioner left her matrimonial home on 17.07.2019 alongwith her minor daughter and since then the 2<sup>nd</sup> petitioner is staying at her parental home.

4. That the 1<sup>st</sup> Petitioner filed a suit for Restitution of Conjugal Rights being T.S(M) case no. 9/2020 on 20/01/2020 which was referred to the Mediation Centre, Tinsukia by this court for resolving their dispute amicably and during the course of Mediation, both of them arrived at final settlement and mutually agreed to settled their dispute on the following terms and conditions :

- a) That the 1<sup>st</sup> Petitioner shall withdraw the Restitution of Conjugal Rights being case no. T.S(M) 09/2020 U/s. 9 of Hindu Marriage Act 1955.
- b) That both the Petitioners decided to go for Divorce being unable to live together as husband and wife and as such, the 1<sup>st</sup> Petitioner will withdraw the case of Restitution of Conjugal right U/s. 9 of Hindue Marriage Act,

1955, and shall file Mutual Divorce petition (Joint Petition) before the court.

- c) That the 1<sup>st</sup> Petitioner has agreed to pay an amount of Rs. 4 Lakhs to the 2<sup>nd</sup> Petitioner as Permanent Alimony in connection with the mutual Divorce Petition through Demand Draft.
- d) Accordingly, the 1<sup>st</sup> Petitioner will pay an amount Rs. 2 Lakhs to the 2<sup>nd</sup> Petitioner on the date of filing of the Mutual (Joint) Divorce Petition before the Court and the remaining amount of Rs. 2 Lakhs only will be paid in four equal installments i.e. on 18.10.21, 29.11.21, 28.12.2021 and 28.01.22 respectively by way of Demand Draft.
- e) It is agreed between the parties that the minor daughter will stay with the 2<sup>nd</sup> Petitioner under her care and custody till the minor attains her majority. Further, it is also decided between them that the 1<sup>st</sup> Petitioner and his family members will visit the house of 2<sup>nd</sup> Petitioner twice or thrice in a month to meet the minor daughter, and for this 2<sup>nd</sup> Petitioner and her family members will not object.
- f) That the 1<sup>st</sup> Petitioner submits that he will pay maintenance allowance of Rs. 4000/- per month to the 2<sup>nd</sup> Petitioner within the 1<sup>st</sup> week of every month toward the minor daughter with effect from the month of October, 2021 and

the 1<sup>st</sup> Petitioner submitted that he shall pay an additional amount of Rs. 10,000/- per year for admission and other miscellaneous expenses for the minor daughter. Accordingly, the 1<sup>st</sup> Petitioner will deposit the aforesaid amount in the Saving Bank Account no. 7165010062736 of the 2<sup>nd</sup> Petitioner maintained at Assam Gramin Vikash Bank, Chabua Branch, bearing IFSC code - PUNBORRBAGB.

- g) That both the Petitioners also agreed to withdraw all the allegations and counter allegations made against each others except the Divorce case and promised not to initiate any other case before the court.
- h) That both the petitioners submits that they shall not interfere in the life of each other after the Divorce and lead their life as per own accord.
- i) That the Petitioners also submits they shall not post any message or images in social media against each other.

5. That as per the above developments, the 1<sup>st</sup> Petitioner returned all the Streedhan articles to the 2<sup>nd</sup> Petitioner in presence of witnesses on 12.09.2021 which has been duly received and acknowledged by the 2<sup>nd</sup> Petitioner. The 1<sup>st</sup> Petitioner has also paid Rs. 2 lakhs as permanent alimony to the 2<sup>nd</sup> Petitioner through Demand Draft

no. 220652 of Punjab National Bank on 07.10.2021 and the 2<sup>nd</sup> Petitioner has duly received and acknowledged the same and she declare that she shall not make any claim against the 1<sup>st</sup> Petitioner in the name of compensation in any manner whatsoever. The 1<sup>st</sup> Petitioner has also withdrawn the Restitution of Conjugal Rights being T.S(M) 9/2020 against the 2<sup>nd</sup> Petitioner pending in this Court and the same was accordingly disposed of. Under the above circumstances, both the Petitioners have mutually agreed to dissolve their marriage.

6. The Petitioners state that the cause of action for the Mutual Divorce arose on and from 29<sup>th</sup> April, 2013, the date of solemnization of marriage between both the Petitioners, on 17.07.2019 when the 2<sup>nd</sup> Petitioner finally left her matrimonial home.
7. As such, the petitioners have prayed for dissolution of marriage and a decree of divorce of marriage as per the provisions of section 13(B) of the Hindu Marriage Act, 1955.
8. On receiving the petition from the petitioners and registering the case, the Suit was fixed and posted after six months as cooling period and after expiry of the cooling period, the petitioners have appeared before the Court and submitted that there is no chance of amicable settlement between

them and prayed for passing necessary Decree of Divorce. Accordingly, the petitioners were allowed to submit Evidence on Affidavit and they have filed Evidence on Affidavit jointly.

9. Upon hearing the Ld. Counsel for the petitioners, I have gone through the petition of the petitioners and the evidence on affidavit and following issues were framed as mentioned here-in-under :

- (i) Whether the Joint Petitioners have been staying separately from each 17.07.2019?
- (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?

**Discussion, Decision & Reasons thereof:**

10. 1<sup>st</sup> Petitioner and 2<sup>nd</sup> Petitioner jointly in their evidence on affidavit have testified in a similar and identical manner as that of the contents of their petition, which is narrated above, as such, their evidence on affidavit is not repeated here for sake of brevity.

11. The 1<sup>st</sup> Petitioner has already settled their disputes in the DLSA, Tinsukia under the terms and conditions laid down by DLSA.

**O R D E R**

**12.** 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 and the 2<sup>nd</sup> Petitioner 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. Accordingly, the issues are decided affirmative. The 1<sup>st</sup> Petitioner has already settled their disputes in the DLSA, Tinsukia under the terms and conditions laid down by DLSA. 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 between the 1<sup>st</sup> petitioner namely, Sri Nupu Phukan and the 2<sup>nd</sup> Petitioner, Smt. Parthana Gohain stands dissolved U/s. 13(B) of Hindu Marriage Act 1955.

**13.** Prepare a decree accordingly.

**14.** 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