

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 (M) Case No. 86 of 2019

On Monday, the 23rd day of November, 2020

Smti Payal Dasgupta(32 Yrs.),
 W/o. Sri Sibuh Ghosh,
 D/o. Sri Dipankar Dasgupta,
 R/o. C/O. Late Modan Mohan Das,
 Bimal Das Mission Para,
 Near Kali Mandir,
 P.O, P.S & Dist. Tinsukia, Assam.

..... Petitioner

-Versus -

Sri Sibuh Ghosh (43 years),
 S/o. Late Kamakhya Ghosh,

Present Address:

Avon Beauty Prod(I) Ltd, RM4,
 C/O. Holisol Logistic Pvt. Ltd.,
 Manasha Mandir Path, VIP Road,
 Ward – 27, Chagalpara, Lokhra,
 Guwahati-781034, Assam.

..... Respondent

This suit came for final hearing on 21.11.2020 in the presence of :

For the Petitioner : Sri A. Neog, Advocate,

For the Respondent : None appeared.

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 Smt. Payal Dasgupta against the respondent Sri Sibul Ghosh U/s. 13(1)(1-a) & (1-b) of the Hindu Marriage Act, 1955 for grant of decree of divorce by dissolving the marriage solemnized between the parties on 21/04/2011 at Lachit Nagar, Digboi, Tinsukia, Assam as per Hindu rites.
2. In the instant case, the respondent Sibul Ghosh failed to contest the case and accordingly the case has been proceeded against him exparte.
3. The brief case of the petitioner is that the petitioner and the respondent married on 21/04/2011 according to Hindu Rites and rituals. Thereafter, they started their married life at Rest Camp Pandu, Near Maligaon Over Bridge, P.S. Pandu, in the District Kamrup Metro, Assam, where the house of the respondent is situated. It is to be mentioned that the petitioner and the respondent have no children.
4. It is claimed that after two years of marriage, the understanding between the petitioner and the respondent began to shake. The respondent makes different issues and excuses to quarrel with the petitioner, for which the petitioner was subjected to extreme mental torture. It is stated by the petitioner that owing to the irreconcilable differences in temperament, habits, tastes and thoughts, the relationship between the parties started to deteriorate. Several attempts were made by mutual friends and relatives of both sides to reconcile between them, but remained unfruitful.

5. The petitioner has stated that she requested several times to the respondent for resumption of their marital life, but the respondent refused to do so. It is stated that since 20/05/2015, the parties have been living separately. The petitioner has stated that more than 4 years have already elapsed after their desertion and during this period, they do not have any conjugal relation. The petitioner has further stated that from the date of marriage, the respondent behaved with cruelty with the petitioner and acted hostile against the interest of the petitioner and also neglected to perform the duties and responsibilities of husband. Now, the petitioner is confirmed that her relationship with her husband has irretrievably broken down and there is no possibility of reconciliation between them. Thus, on 24/05/2019, she filed this case seeking divorce from her husband, on account of cruelty meted out to her by her husband and for desertion. The suit proceeded ex-parte and the issues were duly framed.

- (i) Whether the suit has cause of action or nor?
- (ii) Whether the Respondent has treated the Petitioner with cruelty?
- (iii) Whether the respondent has deserted the petitioner or not ?
- (iv) Whether the Petitioner is entitled to get decree of divorce as prayed for?
- (v) What relief or reliefs, the parties are entitled to under the Law and fact?

6. The petitioner has exhibited copies of photograph of both the petitioner and the respondent. The petitioner adduced evidence of three witnesses including herself. The other two witnesses are Sri Dipankar Das Gupta (PW2), the father of the petitioner and Smti Sibani Das Gupta (PW3), the mother of the petitioner.

7. Today, I have gone through the evidence of the petitioner and her witnesses. The petitioner has reiterated the same facts in her evidence-in-affidavit, as stated in her petition.

8. After carefully going through the evidence-in-affidavit of the witnesses namely Sri Dipankar Das Gupta (PW2) and Smti Sibani Das Gupta (PW3), I find that both of them have supported the case of the petitioner. The said

witnesses, being the parents of the petitioner, have stated that more than 5 years have elapsed after desertion and during this period, the petitioner and the respondent do not have any conjugal relation and they have stated that instead of best efforts to make a reconciliation between the parties, they could not do so.

9. As the suit proceeded ex parte there is nothing to discard the evidences and as such, all the issues so framed are found proved and decided affirmative.
10. It is not generally expected in our society that any married woman interested to file case of divorce against her husband, without any reason. Today, after going through the evidence adduced by the petitioner and her witnesses, I find that the petitioner has proved her case. I am satisfied that the marriage between the petitioner and the respondent has irretrievably broken down and there is no possibility of reconciliation between them. There is nothing to discard the evidence of the petitioner and the issues are decided in affirmative. Therefore, the petitioner deserves to be given a decree, as prayed for. Accordingly, the marriage between the petitioner Smti Payal Dasgupta and the respondent Sri Sibhu Ghosh stands dissolved. The prayer for divorce is granted. The petitioner has not prayed for any alimony, therefore, there will be no order to that effect.
11. Prepare a decree accordingly.
12. The suit is disposed of uncontested without cost.
13. Given under my hand and seal of this Court on this the 23rd day of November, 2020.

Dictated and corrected by me.

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

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