

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. 22 of 2021

On Thursday, the 26th day of May, 2022.

Smti Pompei Gogoi,

W/o. of Jatin Taye,

Resident of Japara Gaon,

P.O. Mohanaghat, P.S. Borboruah,

Dist. Dibrugarh, Assam.**Petitioner No. 1.**

Versus

Mr. Jotin Taye,

S/o. Late Durlab Taye,

Resident of Tiloi Nagar,

P.S. Moran, Dist. Dibrugarh,

Present Address:. Saikhowaghat,

P.S. Saikhowaghat, P.O. Dholla,

Dist. Tinsukia, Assam.....**Petitioner No. 2.**

This suit coming on for final hearing on 25.05.2022 in the presence of :

Sri Satyandra Baruah, Advocate.....for the Petitioner No. 1 & 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, Smt. Pompi Gogoi and Petitioner no. 2, Mr. Jatin Taye for grant of decree of divorce by dissolving the marriage of the petitioner no. 1 and Petitioner no. 2 solemnized between them on 21.12.2017 before the Marriage Officer, Tinsukia vide Marriage certificate no. 644/2013 U/s. 28 of the Special Marriage Act, 1954.
2. The brief case of the petitioners is that after the marriage the petitioners live and resided at their respective houses as mentioned in cause title and never lead a conjugal life together and since 21.12.2017, they have been living separately and there is no issue born out of by virtue of their marriage.
3. That soon after their court marriage, differences in temperament, habits, tastes, thoughts and increasing incompatibility, the relation between them have been deteriorated. Hence, finally they were separated from each other owing to

irreconcilable differences in habits and temperament since the solemnization of their court marriage. Though efforts and attempts were made by family and friends for reconciliation, but it has not been possible owing to vital differences in temperament and total incompatibility to lead a normal married life with dangerous adverse physical and mental consequence.

4. That the petitioners have mutually agreed and decided that there is no point for the continuance of their marital relationship and have further agreed upon the dissolution of their marital tie with mutual consent. The petitioners further agreed that they will not file any claim for maintenance, stridhan articles, whatsoever may be before the court, they will never pursue the private life of each other in near future.
5. Hence, both the petitioners are desirous that their marriage should be dissolved on their mutual consent, there being no chance of reconciliation and on 17.11.2020 they decided to get separated from each other by filing a mutual divorce petition.
6. That the cause of action for this petition arose on 21.12.2017 when the petitioner no. 1 and 2 were executed marriage certificate, and

since then living separately without consummating their marriage life and on 17.12.2020, when the petitioner no. 1 & 2 finally decided to get separated from each other by a decree of divorce.

7. As such, the petitioners have prayed for dissolution of marriage and a decree of divorce of marriage as per the provisions of section 28 of the Special Marriage Act, 1954.
8. The petitioners vide Joint petn. No. 376/22 stating that they have jointly filed this mutual divorce case on 10.02.2021 and the same is pending for mutual divorce. Both the petitioners have separated since 21.12.2017 i.e since 4 years and there is no likelihood of success and they have settled their differences including alimony or any other issues between themselves and there is no chance of their re-union and hence prayed for passing the decree of divorce on mutual consent, being the cooling period is already over.
9. Upon considering the material on record following issues were framed as mentioned here-in-under :
 - (i) Whether the Joint Petitioner have been staying separately from each other since 21.10.2017?

(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?

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

Discussion, Decision & Reasons thereof:

11. The Petitioner no. 1, Smt. Pompei Gogoi, and the Petitioner no. 2, Sri Jotin Taye in their separate Evidences on Affidavits 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

12. Today, after going through the evidences adduced by the petitioners, I find that the petitioners have proved their case. I am satisfied that the marriage between the Petitioner no. 1, Smt. Pompei Gogoi, and the Petitioner no. 2, Sri Jotin Taye have irretrievably broken down and there is no possibility of reconciliation between them. There is nothing to discard the evidence on

affidavits 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 Petitioner no. 1, Smt. Pompe Gogoi, and the Petitioner no. 2, Sri Jotin Taye on 21.12.2017 stands dissolved U/s. 28 of the Special Marriage Act 1954.

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 26th of May, 2022.

Dictated and corrected by me.

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

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