

District- Jamui.

In the Court of Principal Judge, Family Court Jamui

Matrimonial Suit No. 149/2025

Jamui, dated, the 02nd day of April, 2026

Shambhu Yadav, S/o Heera Yadav, aged about 35 years,

R/o Village - Chain, P.S.- Jhajha, District- Jamui.....**Petitioner/plaintiff.**

Vs.

Dulari Devi, D/o Late Prasadi Yadav @ Ghuran Yadav, aged about 30 years,

R/o Village – Dariya, Post – Baudva, P.S.- Jhajha, District- Jamui.

.....**O.P /defendant.**

U/s- 9 of Hindu Marriage Act.

Counsel for the Petitioner:- Sri. Sanjay Prasad, Ld. Advocate.

Counsel for the defendant :- Sri. Dilip Kumar Singh, Ld. Advocate.

J U D G M E N T

1. This suit has been brought under section 9 of Hindu Marriage Act 1955 for restitution of conjugal rights of plaintiff Shambhu Yadav.
2. The case of petitioner/ plaintiff, in brief, is that he married to Dulari Devi in the year 2012 as per Hindu rites and customs. After marriage she came to his house and started living a married life as husband and wife. After staying with him for a few days, defendant started quarreling with him and his parents and said that she would not live with him as she was having an affair with another boy. Her parents forcibly married her to him. He informed his parents about it then his in-laws came to his house and gave a warning to the defendant and told him that she will not do such things again. He somehow began a married life with defendant and from wedlock two sons were born who are aged about 9 and 6 years. Defendant always used to pressurize him that she will not live with her parents and brother because she has to do a lot of work if she lives together. Thereafter, he started living separately from his parents and brother but there was no improvement in the behaviour of the defendant. Since he is a labourer, he had persuaded defendant to stay at home and he went to work in Patna. O.P stayed at his house for a few days and then went to her Naihar. When he came to know about it, he asked her why she had gone to her parents' home, on which she replied, she will not live with him. He returned to his home from his work as labour and went to his in-laws house on 19.07.2025 to bring his wife, on which she refused to come with him and asked him to pay Rs. 2 lakh and break

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off relation, otherwise she will lodge a case on him and his family. When he asked for the custody of his children for their education in school, on which she got angry and started abusing and assaulting him and she also snatched his money and mobile phone and drove him away. Defendant threaten him with dire consequence if he again returns. He is ready to keep her as his wife even today and he does not want to break the marriage relationship. He further prays for following relief : -

- (a) A decree be granted against the defendant for the restoration of his conjugal right.
- (b) He may be granted the litigation cost.
- (c) Other relief as this court may deem appropriate to be granted.

3. After filing of this case on 30.07.2025 it was admitted on 28.08.2025. Thereafter notice was sent to the defendant. Defendant appeared in the Court on 19.12.2025, thereafter she remained absent from the Court. Hence, the case proceeded in her absence.

4. In support of the averments made in the plaint, the plaintiff has adduced evidence of three witnesses who are :-

- I. P.W. 1 – Shambhu Yadav, who is the plaintiff of this case.
- II. P.W. 2 – Kheeru Yadav, who is the uncle of the plaintiff.
- III. P.W. 3 – Mahender Yadav, who is the cousin of the plaintiff.

5. P.W. 1 is Shambhu Yadav, who is the plaintiff of this case stated that he married with O.P Dulari Devi as per Hindu rites and customs in the year 2012. After marriage, Dulari Devi came to his house and started living her married life as his wife. After staying for a few days, O.P started fighting with him and his parents and said, she will not stay with him and she was having an affair with another boy, so her parents got married to him. Then he inform his mother-in-law and father-in-law about this matter, on which both of them came and gave the defendant a warning and said that she would not fight again. From the wedlock two sons have been born, who are aged about 9 years and 6 years. She used to tell him that she will not live with his mother, father and brother, so he went to Patna and started living away from his mother, father and brother. When he went for doing labour work, she without saying anything went to her Naihar. When he enquired about the same on phone, she said that she will not live with him. Thereafter on 19.07.25, when he went to his in-laws to convince his wife

she told him to leave her home and told him to give her Rs. 2 lakh and break the marriage relationship with her, otherwise she will file a case against him and his family. He asked her to give him both the boys for their education, on this his wife got angry and started abusing and beating him and also snatched his Rs. 5 thousand and mobile phone. She also threaten her with dire consequence if he come again. He is ready to keep his wife and child with him.

During examination by this Court, he stated that his wife has left him for more than a year. He has two sons, and his wife took both of them with her. When he talks to his wife on the phone, she told him that she will not go with him. His mother-in-law and brother-in-law also say the same thing that she will not go with him. His wife wanted to stay at her parents' house, and when he refused, this dispute arose.

6. P.W.-2 Kheeru Yadav, who is the uncle of the applicant has stated on the same line as stated by P.W.1 without adding any new fact.

During examination by this Court, he stated that Shambhu Yadav is his nephew. He has been married for 13 years. His wife has been living at her parents' home for eight months. When he went for the Bidai of the applicant's wife, they were beaten up and his mobile phones were snatched and were drove away.

7. P.W.-3 Mahender Yadav, who is the cousin has stated on the same line as stated by P.W.1 & P.W.2 without adding any new fact.

During cross examination no one appeared on behalf of Ld. Counsel for defendant.

Points for determination

(i) Whether this court has jurisdiction to adjudicate this case :- From perusal of record this Court finds that the both parties are residing in District Jamui within jurisdiction of this Court. Hence, this Court has jurisdiction for trial of this case.

(ii) Whether the suit is maintainable in the eye of law and facts :- This suit has been brought in the territorial jurisdiction of this Court and the marriage of the plaintiff with the defendant is evident from the statement in the plaint, statement of witnesses and also this Court finds from the photocopy of Aadhar Card and Certificate issued by Sarpanch Poonam Devi, Gram Kachari Chain, by which it is proved that plaintiff is married with defendant. Now as per the plaintiff and witnesses, defendant is living separately in her parental house and

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deprived the plaintiff from association. So sec. 9 of Hindu Marriage Act is attracted under these circumstances. The plaintiff has filed sufficient court fees for getting the relief. Hence the suit is maintainable.

(iii) Whether Dulari Devi legally wedded wife of plaintiff :- It is evident from the plaint, statement of witnesses and the copy of Aadhar Card that defendant is legally wedded wife of plaintiff. Marriage was solemnized in the year 2012 according to Hindu Rites and Customs. After appearance defendant also did not oppose about the fact of her being wife of plaintiff. There is no contrary oral and documentary evidence available on the record to disprove the factum of marriage of plaintiff with defendant. Hence defendant is legally wedded wife of the plaintiff.

(iv) Whether defendant has withdrawn from the conjugal society of the plaintiff and living separately in her Maika without any reasonable ground ? &

(vii) Whether the plaintiff is entitled to get any other relief or reliefs ? :-

Plaintiff has produced three witnesses in support of his claim that defendant has withdrawn from his conjugal society without reasonable cause. According to the witnesses defendant came to her Sasural but after some days of living there she started quarreling with the parents of plaintiff by saying that she was forced to marry him. She has relation with some other boy. Plaintiff called his parents-in-law, who convinced the defendant and thereafter two sons were born out of the wedlock but thereafter she used to pressurize him to live separately from his parents, which he did in her pressure and thereafter he went to Patna for his earning as a labour. Thereafter defendant without informing him left for her Naihar. When he came to know about it, he returned home and on 19.07.2025 he went to take his wife back but she refused to come and told him to break the matrimonial tie from her after giving Rs. 2 lakh to her, otherwise she will falsely implicate him and his family in the cases. He asked her to give his children back for their education on which she assaulted and abused him and also snatched his Rs. 5,000/- cash and mobile phone.

The evidence of witnesses thus show that the defendant has left the plaintiff without reasonable cause. As per witnesses there is no valid reason given by the defendant. to live separately from her husband. In this context it will be relevant to mention here the provision of the sec. 9 of Hindu Marriage act 1955 i.e.-

"**Restitution of conjugal rights**"- When either the husband or the wife has without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply by petition to the district court, for restitution of conjugal rights and the court on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

"**Explanation**"- Where a question arises whether there has been reasonable excuse for withdrawal from the society. The burden of proving reasonable excuse shall be on the person who has withdrawn from the society. "

According to explanation of section 9 of HMA the burden of proving reasonable excuse for withdrawing from the society of plaintiff lies on defendant because she has withdrawn from the society of plaintiff, she appeared in this case but did not produce any evidence. The evidence of plaintiff remains un rebutted. Hence this Court finds that the defendant has deprived her husband from association. As such defendant has withdrawn from the society of plaintiff without reasonable excuse. So plaintiff is found entitled for relief prayed for but plaintiff is not entitled to any other relief except for restitution of his conjugal rights.

8. It is therefore,

ORDERED

that this suit is allowed and decreed in favour of the plaintiff / petitioner and defendant. / defendant is directed to restore the conjugal rights of petitioner/ plaintiff.

Office is directed to prepare decree accordingly.

Dictated & corrected by me.

Principal Judge, Family Court,
Jamui

Dated: 02.04.2026

Principal Judge, Family Court,
Jamui.

Dated: 02.04.2026

Date of Judgment / Order	02.04.2026
Date of Reserving Judgment / Order	18.03.2026
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