

Mat suit 164/2022
R-164/22
CNR No. WBDJ 010011172022
Present : Sri Madan Mohan Mishra
JO no. WB00727

Order no. 14 dated 06.12.23

Petitioner-wife is present along with her appointed learned advocate on this day fixed for further ex-parte hearing in the suit.

Learned advocate representing petitioner/wife submits that petitioner shall not adduce any further evidence in the suit.

In view of submission of learned advocate representing the petitioner/wife the evidence of petitioner/wife in the case is closed and the case record is taken up for hearing of arguments.

Heard arguments put forward by learned Advocate for petitioner at length.

Now, the case record is taken up for passing ex parte order.

This is an application u/s 13(1)(i-b) of Hindu Marriage Act filed by Petitioner-wife praying for passing the decree of divorce on the ground of cruelty and desertion.

Petitioner's case in brief is that the marriage between petitioner and respondent was solemnized on 12.06.1998 at Mul Gaon, Pandam Tea Estate PS- Sadar, District-Darjeeling according to Hindu rites and customs within the jurisdiction of this court. After marriage petitioner and the respondent lived together as husband and wife at Mul Gaon, Pandam Tea Estate PS- Sadar, District-Darjeeling to lead conjugal life. Out of the wed lock one son Swayam Chettri has been born on 16.05.2007. The marital life between the parties was cordial, peaceful and the relation between petitioner and respondent was affectionate. But after 20 years of their marriage the respondent started behave differently and failed to perform his household duties bing the husband. Respondent used to quarrel with the petitioner over minor issues and the petitioner tried her best to save the marital but their relationship became worse day by day. Petitioner being a wife tolerated all the mental torture with the hope that respondent would mend his way but respondent continued to inflict mental torture upon the petitioner. Whenever petitioner confronted respondent to become aggressive and threw vulgar languages towards petitioner. In 2019 a serious quarrel took place in between the petitioner and respondent and

respondent left petitioner and started to live separately. The respondent disassociate him with the petitioner without any reason. All the attempts made by the petitioner, her family members and well wishers to reconcile the matrimony of petitioner with respondent went in vain. On the aforesaid ground the petitioner files the application for dissolution of marriage solemnized with respondent on 12.06.1998.

In spite of service of summons respondent-husband did not appear to contest the suit. So the suit proceeded ex-parte.

To decide the case of petitioner the following points are framed for consideration :-

- 1) Whether the application is maintainable in its form and prayer ?
- 2) Whether the respondent after solemnization of the marriage treated the petitioner with cruelty ?
- 3) Whether the respondent has deserted the petitioner since 2019 for a continuous period of not less than two years immediately preceding the presentation of the application for dissolution of the marriage on 01.11.2022 ?
- 4) Is petitioner entitled to get the decree of dissolution of the marriage solemnized between her and the respondent on 12.06.1998 ?
- 5) To what other relief/ reliefs the petitioner is entitled ?

To prove her case the petitioner examined herself as PW-1 and one Rubina Chettri as PW-2.

DECISION WITH REASONS

Point No. 1 :

From the averments made in the application I find nothing adverse to see the maintainability of the application in its form and prayer.

Thus, the issue is answered in affirmative.

Points No. 2 to 5 :

The points being inter-related are taken up together for decision.

Petitioner-wife in her application has categorically averred that the marital life between the parties was cordial, peaceful and the relation between petitioner and respondent was affectionate. But after 20 years of their marriage the respondent started behave differently and failed to perform his household duties being the husband. Respondent used to quarrel with the petitioner over minor issues and the petitioner tried her best to save the marital but their

relationship became worse day by day. Petitioner being a wife tolerated all the mental torture with the hope that respondent would mend his way but respondent continued to inflict mental torture upon the petitioner. Whenever petitioner confronted respondent to become aggressive and threw vulgar languages towards petitioner. In 2019 a serious quarrel took place in between the petitioner and respondent and respondent left petitioner and started to live separately. The respondent disassociate him with the petitioner without any reason. All the attempts made by the petitioner, her family members and well wishers to reconcile the matrimony of petitioner with respondent went in vain. Petitioner-wife examined as PW-1 on dock reiterated the facts stated in the application.

The series of allegation of ill conduct of respondent towards petitioner made by petitioner-wife in the plaint and on dock went unchallenged.

On comprehensive appraisal of the entire matrimonial life of the parties as found from the unchallenged assertion of petitioner/wife it becomes abundantly clear that situation is such that respondent-husband has deprived petitioner-wife of his company and did not take any heed of petitioner and her son for long. The petitioner-wife cannot reasonably be asked to put up with such conduct and continue to live with respondent/husband.

Considering the unchallenged assertion of Petitioner-wife that respondent treated her with cruelty since after solemnization of the marriage and respondent has deserted the petitioner for a continuous period of more than two years from 2019 till the presentation of the application for dissolution of the marriage on 01.11.2022 the petitioner is entitled to get the decree of divorce as prayed for.

To no other relief the petitioner-wife is entitled.

Thus, the point Nos. 2, 3 and 4 are answered in affirmative and point No. 5 in negative.

As a result, the suit succeeds.

C. F. paid is correct.

Hence, it is

ORDERED

that the suit be and the same is decreed ex parte without cost. The marriage solemnized in between the parties on 12.06.1998 according to Hindu

rites and customs is hereby dissolved by a decree of divorce with immediate effect.

Let a copy of the order along with the decree to be drawn be supplied to the petitioner free of cost in terms of provisions contained under section 23 (4) of Hindu Marriage Act.

Dictated & Corrected by me

Additional District Judge,
3rd Court, Darjeeling

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