

Order No. 13 dated 11.09.23

Today is fixed for filing W.S. by O.P. I.d. exparte.

Petitioner is present along with his Ld. Advocate.

None of the O.P.s is present.

It is 12.15p.m. On repeated calls neither O.P.s nor their Ld. Advocate are present.

Hence, case record is taken up for exparte hearing.

Petitioner along with his one witness Khokan Das are present.

Petitioner namely Uttam Karmakar and his witness Khokan Das are examined as PW-1 and PW-2 respectively in full and discharged.

Aadhar card of petitioner Uttam Karmakar being No. 9279 8552 8158 be marked as Ext.1 and aadhar card of Khokan Das being No. 2833 1664 6082 be marked as Ext.2.

Ld. Advocate of the petitioner verbally submitted to close the evidence as they will not adduce any more witness.

Case record is taken up for hearing argument at the instance of the Ld. Advocate of the petitioner.

Heard argument from Ld. Advocate for petitioner.

Judgement will be pronounced at 2p.m.

Dictated & corrected by me

Additional District Judge,
2nd Fast Track Court,
Lalbagh, Murshidabad.

Additional District Judge,
2nd Fast Track Court,
Lalbagh, Murshidabad.
11.09.23

**In the Court of the Addl. District Judge, 2nd Fast Track Court,
Lalbagh, Murshidabad.**

**Present:- Barnali Dasgupta,
Additional District Judge,
2nd Fast Track Court, Lalbagh,
Murshidabad.**

J.O. Code WB00878

Mat Suit No. 454 of 2022

CNR No. WBMD050011122022

Petitioner.

-Versus-

Opposite Party.

Uttam Karmakar

Sangita Karmakar (Mondal)

Later order, dated 11.09.23

Petitioner along with his Ld. Advocate are present.

The case record is taken up for passing order.

The instant Mat Suit has been filed on 04.10.21 by the petitioner/husband Uttam Karmakar against his wife Sangita Karmakar (Mondal) U/S 13 of the Hindu Marriage Act, with a prayer for a decree of divorce by dissolving the marital tie between himself and the Opposite Party before Ld. A.D.J, Lalbagh, Murshidabad being case No. Mat 184/2021. The record was subsequently transferred to this court for disposal and this court received the same on 25.11.22 and the case was renumbered as Mat Suit No.454/2022.

The fact of the case in brief is that petitioner Uttam Karmakar was married with the O.P Sangita Karmakar (Mondal) and their marriage was solemnized as per Hindu rites and customs on 09.02.2009 at the house of father of the Opposite Party. Said marriage was consummated by cohabitation. After marriage they used to live together as husband and wife at the house of the petitioner and out of their wedlock one son and one daughter were born namely Puspan Karmakar and Meghna Karmakar. Both the petitioner and O.P. were residing at Guljarbagh, Baligram and lastly at Guljarbagh Mistry Para under Jiaganj P.S. from 01.01.2018 to 06.02.2020. At Guljarbagh Mistrpara the petitioner noticed that his wife appeared eccentric and easily irritated and a noticeable change also appeared in her love and affection. Petitioner found that an illicit relation has developed in between his wife and respondent no.2. Many witnesses informed the matter to him. On 06.02.2020 petitioner returned from his business place at Amaipara

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under P.S. Jiaganj where a business under the name and style of 'Karmakar Auto Mobile' runs and petitioner is 10% share holder of that business, to his house early and found his wife with indisciplined wearing apparels and also found respondent no.2 under their cot with wet seminal stains on the front portion of his under pant. The petitioner asked him about his wearing dress and the respondent No.2 brought his shirt and pant from under the mattress of the cot and also confessed his guilt. Petitioner took both respondent No.1 and 2 to the father's house of respondent No.1 at Baligram and narrated the incident to his parents in law and also stated that he does not want to reside with respondent No.1 and leaving her in that place. But respondent No.1 in connivance with her parents went to Jiaganj P.S. on that date and lodged a complaint against the petitioner U/S 498A of I.P.C. and petitioner was in custody in that case. The two minor children of the petitioner are living with him. Hence this case was lodged by the petitioner with a prayer for a decree of divorce between himself and respondent No.1.

Summons were duly served upon the opposite parties and they appeared before this court in this case but subsequently did not turn up nor filed their written objection and as such the case was proceeded ex parte.

In support of the plaint's case, the petitioner adduced himself as PW-1 to prove his case today and one Khokan Das was adduced at PW-2 in support of the petitioner's case. The photocopy of self attested Aadhar Card of petitioner duly identified by his Ld. Advocate after comparing with original is marked as Ext.1 and photocopy of self attested Aadhar Card of witness Khokan Das duly identified by his Ld. Advocate after comparing with original is marked as Ext.2.

After going through the plaint, the evidences and the submission of the Ld. Advocate for the petitioner and after perusing the entire materials available on record, it transpires that the opposite party intentionally did not turn up to contest the case at subsequent stage though they appeared after receiving the summons and on the other hand the petitioner duly proved his case by giving both oral and documentary evidence that he is not in a position to live with the opposite party / wife who lead an illicit life with respondent No.2 and there is no chance of reunion of the parties in near future. It also transpires from the case record that the ground of extra marital

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relation of the respondent No.1 with respondent No.2 has duly been proved by the petitioner adducing the evidence as PW 1 and also by the corroborating evidence of PW.2.

Considering all, this Court is of opinion that this is a case U/S 13 of The Hindu Marriage Act, filed by the petitioner on the ground of extra marital relation of the respondent No.1 with respondent No.2 and the story of the plaint has duly been corroborated by adducing evidences of the petitioner himself and witness Khokan Das and the petitioner is entitled to get an order of divorce by dissolving their marital tie, which was solemnized on 09.02.2009 as per Hindu rites and customs with the opposite party.

Hence, it is,

Ordered

That the instant Mat suit be and the same is decreed, ex parte, but without any order as to cost.

That the marital tie between the petitioner Uttam Karmakar and the opposite party Sangita Karmakar (Mondal) which was solemnized on 09.02.2009, as per Hindu rites and customs is hereby dissolved by an exparte decree of divorce from the date of this order i.e. 11.09.23

Dictated & corrected by me

Additional District Judge,
2nd Fast Track Court,
Lalbagh, Murshidabad.

Additional District Judge,
2nd Fast Track Court,
Lalbagh, Murshidabad.
11.09.23