

Date is fixed for PH

Petitioner files hazira.

Respondent absent without step.

Petitioner has examined herself as PW-1. No documents filed.

Heard argument and closed.

The facts as enumerated in the divorce application is that parties to the suit are wife and husband who got married on 6-11-2023 as per Hindu rights and customs. Nuptial gifts were exchanged during the marriage. It is alleged that few days after marriage, the family members of the respondent express their dissatisfaction over the article received during marriage and demanded Rs. 1,00,000/- for the need of running their seasonal business. When petitioner could not provide or fulfill their demand, she was subjected to both mental and physical torture. Respondent repeatedly used to say that he is not happy with the petitioner and started sharing bed with the petitioner. He even started coming home late night in drunken state and abuse his the petitioner and used to assault her physically. He even sometimes threw hot tea over her, beat her by holding her hair. When she could not tolerate the torture she returned to her paternal house. Respondent never inquired about her during all these days. Since the marriage between the parties have been totally broken and there is no chance of reconciliation, she preferred the suit for divorce.

Respondent by filing his written statement denied all the material facts as alleged in the application filed by the petitioner, save and except those which have been specifically admitted specially the factum of marriage. He specifically contended that after marriage they started living together as husband and wife but the petitioner always insisted him to remain as son-in-law in her father's house which he flatly denied. As such the dispute and differences cropped up between the husband and wife. The family member of the respondent and their well wisher tried to settle their matrimonial dispute but in vain. Since the petitioner left the matrimonial home without reasonable cause, the alleged fact of torture and cruelty are not only baseless but are all figment of imagination of the petitioner. However, he finally stated in his written statement that he has no objection if the decree of divorce be given to the petitioner as there is no chance of reconciliation between them.

Since the respondent in spite of filing written statement and even after framing of issues did not attend to cross-examine the petitioner witness nor he presented himself to adduce evidence in this case. When a party failed to appear before the court after filing plaint/ written statement presumption can be drawn that the case presented by himself/herself is not true.

The Hon'ble Apex Court in the case of Vidhyadhar v. Manik Rao & Anr., as reported in (1999) 3 SCC 573 have been pleased to held that when a party to the suit does not appear in a witness box and states his own case on oath and does not offer himself to be cross-examined by the other side, presumption would arise that the case set up by him is not correct.

Further this respondent by filing his written statement though denied all the alleged material facts as alleged in the plaint but finally in paragraph 24 he has stated that he has no objection if the court can grant decree of divorce in favor of the petitioner. This admission itself is sufficient that the respondent is not ready to perform matrimonial obligation with the petitioner.

Accordingly, without any further discussion that unchallenged evidence of the petitioner is accepted and she is entitled to get a decree of divorce as prayed for.

In the result the suit succeeds in part in exparte.

Court fee paid is sufficient.

Hence it is,

ORDERED

that the matrimonial suit be and the same is here by decreed ex-parte on the ground of cruelty.

That the marriage solemnized between the petitioner and the respondent on 6-11-2023 stands dissolved by a decree of divorce under Section 13 (1) (ia) of The Hindu Marriage Act, 1955.

Let a copy of this order be given to the parties, free of cost, if so applied.

Written & corrected by me,

Sd/-

Addl. District Judge,
1st FTC, Contai.

Sd/-

(Sarad Kumar Chhetri)
Addl. District Judge
1st FTC, Contai.
(JO Code : WB-00786)