
(2002) 11 JH CK 0001

Jharkhand High Court

Case No: C.R. No. 322 of 2002

Bishnu Bhagat

APPELLANT

Vs

Pushpa Devi

RESPONDENT

Date of Decision: Nov. 22, 2002

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115

Citation: (2006) 1 JCR 364

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: Amar Kr. Sinha, Manoj Prasad, Navin Kr. and K.K. Jaipurkar, for the Appellant;
M.M. Banerjee and A.K. Das, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

M.Y. Eqbal, J.

Heard the parties.

2. Petitioner obtained ex parte decree of judicial separation in divorce case No. 9/95 against his wife. The opposite party-wife filed application for setting aside the ex parte decree on the ground inter alia that she was posted at Tamar as Supervisor in "Bal Vikas Pariyojana" and after her transfer from Simdega she could not consult her lawyer. She also made other grounds for not appearing in the Court when the suit was heard ex parte. Learned Addl. District and Sessions Judge after satisfying himself with sufficient cause, set aside the ex parte decree by passing the impugned order.

3. Since there is no serious error of law or error of jurisdiction committed by the Court below, I am not inclined to exercise revisional jurisdiction u/s 115 of the CPC by interfering with the impugned order. Moreover, justice demands that husband should obtain contested divorce decree against his wife on account of some laches

and negligence on the part of the wife in defending the suit, I modify the order by only imposing cost of Rs. 1500/- to be paid to the petitioner which is condition precedent for setting aside ex parte decree. The respondent is directed to appear in the Court below on the next date fixed and the Court below is directed to dispose of the suit within four months from the date of receipt of copy of this order.

4. With the aforesaid observation and direction this revision application is disposed of.