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## Bishnu Bhagat Vs Pushpa Devi

C.R. No. 322 of 2002

Court: Jharkhand High Court

Date of Decision: Nov. 22, 2002

**Acts Referred:** 

Civil Procedure Code, 1908 (CPC) â€" 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. Jaipuriar, 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 no 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.