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(2002) 02 JH CK 0040

Jharkhand High Court

Case No: Appeal from Original Decree No. 109 of 1999 (R)

Sapna Banerjee	APPELLANT
Vs	
Rabindra Nath Banerjee	RESPONDENT

Date of Decision: Feb. 8, 2002

Acts Referred:

- Hindu Marriage Act, 1955 - Section 9

Citation: AIR 2002 Jhar 111 : (2002) 2 DMC 405

Hon'ble Judges: Hari Shankar Prasad, J; Gurusharan Sharma, J

Bench: Division Bench

Advocate: S.P. Sinha, for the Appellant; Shivnath and Prabir Chatterjee, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. This appeal has been filed u/s 19 of the Family Courts Act, 1984, by Sapna Banerjee, wife of Rabindra Nath Banerjee of Dhanbad town, challenging impugned judgment and decree, whereby she was directed to go to her matrimonial home along with her husband and to enjoy a happy marital conjugal life with her husband.

2. Admittedly, appellant was married with respondent on 14.2.1992 according to Hindu rites and customs. The said marriage was also registered on 3.7.1992 before the Registrar at Purulia. After marriage both were living at Mahuda.

3. On 18.10.1993, respondent-husband filed an application u/s 9 of the Hindu Marriage Act, 1955, alleging therein that his father-in-law started demanding his salary on the ground that he was employed by BCCL in lieu of his land having been acquired by the said Company and on her father''s advise appellant also disconnected all relation and severed her connection with him.

On 1.10.1993 she finally left his house at Mahuda in his absence with all her articles and ornaments and started living in her parent''s house situated in Railway Colony near Mahuda railway station. Respondent, therefore, sought relief for restitution of his conjugal rights. On the said application Title (Matrimonial) Suit No. 94 of 1993 was instituted.

5. Appellant appeared in suit and alleged that behaviour of respondent was very cruel to her and when such cruelty crossed the limit and she was knocked out her matrimonial house on 1.10.1993, she was compelled to take shelter in her parent''s house.

6. It was further alleged that after marriage her husband got employment in BCCL and had given a written guarantee to maintain her and family of her father properly. In paragraph 8 of her written statement she specifically asserted that she is ready to accompany the society of her husband.

7. By impugned judgment and decree, the suit was decreed for restitution of conjugal rights. It was found that the wife wanted her husband to live with her in the house of her father whereas the husband wanted to live with her independently in the quarter allotted to him in the Colliery. This was a matter to be settled by mutual agreement between the parties.

8. On the basis of materials brought on record, it was established that it is the wife, who had abandoned her husband, deserted him and had gone to her parents'' house without any reasonable cause, and as such the husband was entitled to a decree for restitution of conjugal rights.

9. We find no merit in this appeal. It is, accordingly, dismissed.