

## Gopal Prasad Sah Vs Lalita Sah

**Court:** Patna High Court

**Date of Decision:** Dec. 17, 1999

**Acts Referred:** Hindu Marriage Act, 1955 " Section 13, 13B

**Citation:** (2000) 2 PLJR 302

**Hon'ble Judges:** P.K. Deb, J

**Bench:** Single Bench

**Advocate:** Sukumar Sinha, for the Appellant; Y.V. Giri, M.N. Prabat and Rajiv Giri, for the Respondent

### Judgement

@JUDGMENTTAG-ORDER

P.K. Deb, J.

Both the parties are present.

2. In pursuance of the agreement dated 3.12.1999, a joint petition has been filed today before this Court u/s 13-B of the Hindu Marriage Act for

recording of divorce on mutual consent. The petition has been presented before this Court by the spouses. Generally, such petitions are to be

entertained by the district court where the jurisdiction lies for any petition under the Hindu Marriage Act. Already the parties have fought before the

district court for grant of decree of divorce on various grounds as contemplated u/s 13 of the Act. But as the grounds of divorce could not be

proved to the satisfaction of the district court, the decree of divorce had not been granted and the Matrimonial case being Matrimonial Suit No. 17

of 1993 had been rejected by the Additional District Judge, Pakur, and, hence, against that dismissal the present appeal i.e. F.A. No. 62 of 1995

has been filed.

3. During the course of hearing of the appeal, an attempt was made by this Court for having a reconciliation between the spouses but after talking

to the parties it could be found that there was no scope of any reconciliation for revival of conjugal life between the parties. Both the spouses are

adamant in their stands not to submit to the matrimonial home and their relationships had become so bitter that there was no coitus between the

parties for the last six years. They were separate from themselves and residing in different places. The female spouse is residing with her father at

Beliharpur village in the district of Sahebganj in Pakur while the husband is residing at his own house at village Katoria within the district of Banka.

The marriage knot for practical purposes had already been severed long back. In that way, at the counselling of the learned advocates of both the

parties, the spouses could mutualise their dispute for having a decree by mutual consent for divorce to lead their independent lives. As the wife is

not having any income of her own, an amount of Rs. 80,000/- has been paid by the husband to the wife as lump sum towards permanent alimony

and further Rs. 1,000/- has been paid towards the loss of marriage gifts of the wife which was lost at the matrimonial home itself. The amounts as

mentioned above have been paid today in the Court itself by making over two drafts of Rs. 40,000/- and Rs. 41,000/- each under bank draft Nos.

793650 and 793651 dated 16.12.1999 drawn on State Bank of India in the name of female spouse Lalita Sah.

4. There is mandatory provisions u/s 13-B of the Hindu Marriage Act that after a joint petition is presented before the court for divorce on mutual

consent, the parties are to given at least six months time for re-thinking over the matter so that solemnized marriage may not be broken down for

ever. But in the present case, it has already been found that the parties have become adamant to bring severance of the marriage knot immediately

as already they have suffered from severances for the last six years. After talking to the spouses, this Court was also satisfied that there is no scope

of any mutualisation even if six months more time is allowed to them when they could not be mutualised for the last six years and they are fighting for

the said dispute in different courts. In that way, the period of six months as provided u/s 13-B of the Hindu Marriage Act is hereby dispensed with

and the decree of divorce is granted today itself by severing marriage knot solemnized between the parties on 5.3.1992. The order of divorce shall

take effect from this date itself and from today the spouses are free to lead their independent lives. Good wishes remain with the spouses to have

their partners of their choice in future life. It has also been agreed upon between the spouses that they are not going to fight out any criminal or civil

cases on the basis of their relationship on the marriage knot and if such case is still pending, the same shall stand withdrawn.