

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Arun Kumar**

**vs.**

**Sushmita Kumari**

Miscellaneous Appeal No. 853 of 2017

02 September 2025

**(Hon'ble the Acting Chief Justice and**

**Hon'ble Mr. Justice S.B. Pd. Singh)**

**Issue for Consideration**

Whether matrimonial suit filed by the appellant-husband for dissolution of marriage has rightly been dismissed?

**Headnotes**

Hindu Marriage Act – Matrimonial Suit for Decree of Divorce – Implications of Absence of Respondent from Divorce Proceeding – appeal against judgment and decree whereby the petition, filed by the appellant-husband for dissolution of marriage has been dismissed.

**Held:** grounds raised by the appellant is though required to be tested and proved but, in the absence of the respondent-wife, there is no way in which such contentions can be rebutted - thrusting our opinion on the continued absence of the respondent from the proceedings before the Family Court and this Court, we conclude that the relationship of husband and wife is non-existent - there is no effort on the part of the respondent to even ask for restitution of conjugal right or payment of matrimonial dues which is an evidence of the complete abandonment of the relationship at the instance of the respondent-wife - allowing this litigation to be continued endlessly would serve no purpose - appellant and respondent declared to be divorced – appeal allowed. **(Para – 9-12)**

<b>Case Law Cited</b>
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XXX

<b>List of Acts</b>
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Family Court Act, 1984; Hindu Marriage Act, 1955

<b>List of Keywords</b>
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Matrimonial Suit; Decree of Divorce; Restitution of Conjugal Right; Payment of Matrimonial Dues; Desertion - Cruelty; Adultery; Absence of Wife from Divorce Proceeding; Abandonment of the Relationship.

<b>Case Arising From</b>
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Judgment and decree dated 12.07.2017 passed by learned Principal Judge, Family Court, Begusarai in Divorce Case No. 106 of 2015, whereby the petition, filed by the appellant-husband for dissolution of marriage has been dismissed.

<b>Appearances for Parties</b>
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For the Appellant/s: Mr. Kumar Ravish, Advocate

For the Respondent/s: None

Headnotes Prepared by Reporter: Ghanshyam, Advocate.

<b>Judgment/Order of the Hon'ble Patna High Court</b>
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**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.853 of 2017**

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Arun Kumar Son of Ramakant Thakur, Resident of Village- Chakiya, P.S.-  
Barauni, District- Begusarai, Bihar.

... .. Appellant/s

Versus

Sushmita Kumari Wife of Shri Arun Kumar, Daughter of Shri Ramanand  
Thakur, Resident of Village- Hal Mokam- Miyanchak, Chattiroad, P.S.-  
Nagar, district- Begusarai, Bihar.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Kumar Ravish, Advocate  
For the Respondent/s : None

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE**

**And**

**HONOURABLE MR. JUSTICE S. B. PD. SINGH**

**CAV JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)**

**Date : 02-09-2025**

Heard Mr. Kumar Ravish, learned counsel for the  
appellant. In spite of valid service of notice, none appears  
on behalf of the respondent.

2. The present appeal has been filed under Section  
19(1) of the Hindu Marriage Act, 1984 impugning the  
judgment and decree dated 12.07.2017 passed by learned  
Principal Judge, Family Court, Begusarai in Divorce Case  
No. 106 of 2015, whereby the petition, filed by the  
appellant-husband for dissolution of marriage has been  
dismissed.



3. The appellant-husband grieves that his wife (respondent) is neither ready to join him in the matrimonial fold nor is she agreeable to contest the case of divorce.

4. The impugned judgment, rejecting the prayer of the appellant for passing a decree of divorce on the ground of desertion, cruelty and adultery, has been passed even though the respondent-wife never appeared in the suit. Before this Court also, there is no representation on behalf of the respondent-wife. *Dasti* notice on behalf of respondent-wife was accepted by her sister-in-law viz. Puja Kumari but there was no representation on her behalf. Ultimately, vide order dated 17.03.2025, appellant was directed to take fresh steps of service of notice on respondent through newspaper publication and vide order dated 22.07.2025, the notices issued to the sole respondent through newspaper publication was held sufficient. Still no one appeared on behalf of the respondent.

5. The appellant submits that his marriage with the respondent was solemnized on 19.12.2001, in accordance with Hindu rites and customs. It is alleged by the appellant that after about two years of marriage, the behaviour of the



respondent became arrogant and she started ill-treating parents and brothers of the appellant. In the meantime, two daughters were born out of the wedlock, one in the year 2003 and another in the year 2005, but despite the birth of children, the respondent continued with her indifferent and arrogant conduct. She often displayed violent temperament on trivial issues raised by the appellant's parents or other in-laws. It is further stated that on 01.01.2006, the respondent prepared herself to go out in the morning and when inquired about her whereabouts, she quarreled with the appellant and threatened to commit suicide, though she was pacified after much persuasion. On the same night, the appellant allegedly found a note in the handwriting of the respondent wherein she admitted to her arrogant behaviour, questionable character, and adulterous conduct. The appellant further contends that the parents and brothers of the respondent used to support her in such behaviour and also threatened the appellant from time to time. The appellant states that in the year 2007, a male child, namely Aryan, was born from the wedlock. However, on 15.12.2011, the respondent left the matrimonial home and went to her parental house



(*naihar*) along with her clothes, jewellery and the children, without informing or seeking permission of the appellant. The appellant made repeated efforts to bring her back but she categorically refused and expressed her desire to take divorce from the appellant. On 04.01.2015, when the appellant again visited her parental house to persuade her to return to her matrimonial house, he was allegedly misbehaved by the respondent and other in-laws and he was compelled to file a complaint before the Chief Judicial Magistrate on 13.02.2015. It is the consistent stand of the appellant that the behaviour of the respondent has been cruel and unpleasent towards him and his family members, and that she has finally deserted the appellant without any reasonable cause and settled herself at her parental house with an intent to not return to her matrimonial house. Despite these facts, the learned Family Court dismissed the appellant's suit in a cursory manner, without properly appreciating the pleadings and materials available on record, and that too saddling the appellant with costs.

6. The two witnesses including the appellant himself were disbelieved by the trial court by holding that



appellant has deliberately deserted his wife (respondent) and the allegation of adultery against her is false which amounts to cruelty at the hand of appellant.

7. Mr. Kumar Ravish, learned counsel for the appellant, submits that learned Court below has committed a grave error in dismissing the suit, and such dismissal is *per se* illegal and unsustainable in the eye of law. It is urged that there was sufficient material on record to establish that the respondent has subjected the appellant and his family members with cruelty after the solemnization of marriage. Further, it is contended that the respondent left the matrimonial home along with her belongings, jewellery and children, and despite repeated requests from the appellant, she has not returned since then. It is further contended that despite repeated issuance of notices, the respondent-wife neither appeared before the Family Court nor has she chosen to appear before this Court, which itself is sufficient to establish desertion on her part, as it clearly demonstrates her lack of interest in contesting or rebutting the allegations made by the appellant.

8. In support of the divorce petition, two witnesses



including appellant himself and his father were examined, who have fully supported the case. The circumstances narrated above clearly demonstrates that the respondent-wife is not interested in living in the matrimonial fold with the appellant or else she would have contested the case. There is nothing on the record to disbelieve and discard the evidence of P.W.s because they have not been cross-examined due to absence of respondent-wife. Thus, the evidence of P.W.s remains intact.

9. After analyzing the absence of respondent-wife in the court despite endeavors by the Court below as well as by this Court, we deem it appropriate to dispose of this appeal finally.

10. The grounds raised by the appellant is though required to be tested and proved but, in the absence of the respondent-wife, there is no way in which such contentions can be rebutted. However, thrusting our opinion on the continued absence of the respondent from the proceedings before the Family Court and this Court, we conclude that the relationship of husband and wife is non-existent, that apart respondent remained silent for these many years





despite providing ample opportunity, place her versions in the subject matter.

11. There is no effort on the part of the respondent to even ask for restitution of conjugal right or payment of matrimonial dues. This is again an evidence of the complete abandonment of the relationship at the instance of the respondent-wife.

12. Regard being had to the aforementioned circumstances in the present appeal, we find that allowing this litigation to be continued endlessly would serve no purpose.

13. For the reasons which have been noted above, the judgment and decree dated 12.07.2017 passed by learned Principal Judge, Family Court, Begusarai in Divorce Case No. 106 of 2015, which has been dismissed by the Family Court, is hereby set aside.

14. The appellant and the respondent are declared to be divorced after giving a decree of dissolution of their marriage solemnized on 19.12.2001.

15. This declaration would be a decree reflecting cessation of relationship between the spouses.



16. Registry is directed to prepare decree of divorce accordingly.

17. M.A. No. 853 of 2017 stands allowed.

( S. B. Pd. Singh, J)

(P. B. Bajanthri, ACJ)

Shageer/Niraj

AFR/NAFR	AFR
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