

Arpita Das Petitioner

Vs.

Prosenjit Das Respondent

Order No. 11, dt. 14.03.2022

Today is fixed for delivery of judgment ex parte.

The record is taken up for delivery of judgment.

This is an application U/s 12 of the Hindu Marriage Act, 1955 for dissolution of marriage by a decree of divorce.

The plaint case in a nutshell is, that on 15.08.2019 the marriage between the petitioner and respondent was solemnized according to Hindu rites and customs in presence of their respective family members, friends and well wishers.

Since the night of the said *Boubhat* ceremony i.e., on 18.08.2019, the petitioner witnessed a tremendous painful life. On that night of *phulsajjya* the respondent did not allow the petitioner to cohabit with a plea that the respondent was very tired and required rest, which petitioner believed with trust as genuine. But since thereafter that night, the respondent did not allow the petitioner to cohabit with him at any time during the stay of the matrimonial house by taking one after another pretext with some unusual behaviour which were unbearable as well as intolerable in human conduct and thereafter the petitioner was bound to leave her matrimonial house in tears on 20.08.2019 and did not disclose only for her prestige and dignity and thereafter the petitioner has been living at her relative's house. Thereafter the petitioner did not return to her matrimonial house.

Serious and mysterious contravention of the conditions and separation from husband and in-laws immediately just after the marriage, as aforesaid, the married life of the petitioner could not get consummated in any manner whatsoever since after the marriage and till date.

The petitioner states the marriage between the parties is null and void and for that the marriage dated 15.08.2019 is liable to be annulled by a decree of nullity.

Notice of the suit was served upon the respondent, but he did not appear to contest the suit. Therefore, the suit was heard ex parte.

During ex parte hearing of the suit the petitioner got herself examined as P.W.1.

The photocopy of the Aadhar Card of the petitioner no.1 was marked as Exbt.1.

The photocopy of the Aadhar Card of the petitioner no.2 was marked as Exbt.2.

The testimony of the petitioner remained unchallenged. By her unchallenged testimony the petitioner has been able to prove the fact, that she was subjected to mental and physical torture by the respondent/husband. The petitioner has also been able to prove, that due to the will abstinence of the respondent the said marriage could not be consummated. She supported the plaint case and proved, that the marriage between her and the respondent was solemnized on 15.08.2019 in accordance with the Hindu rites and customs.

P.W-2, Bharari Das (mother of Arpita Das) deposed that she is well acquainted with the facts and circumstances of the case. She stated that the marriage between the parties was solemnized on 15th day of August, 2019 in his presence. She stated that the said marriage was never consummated and no chance of consummation due to deliberate and willful refusal and avoidance of the opposite party/respondent, as such marriage was voidable under section 12 of the Hindu Marriage Act and voidable marriage is got to be declared as nullity by terminating and declaring the marriage to be void.

Since there was no evidence to the contrary, this court finds no reason to disbelieve the contention of the petitioner and thus the allegations as set forth in the plaint has been proved by her successfully. The ground, as mentioned by the petitioner remains proved.

Non consummation of marriage constitutes one of the grounds for divorce, which has been proved by her unchallenged testimony and there is no reason to disbelieve her evidence.

As a result, the suit succeeds and the petitioner is entitled to the decree of nullity as prayed for.

C. F. paid is correct.

Hence, it is

Ordered

that the suit be and the same is decreed ex parte without any order as to cost.

The marriage solemnized in between the parties on 15.08.2019 is hereby declared to be a nullity from the date of the said marriage.

Decree be drawn up accordingly.

The suit is, thus disposed off.

D/C by me.

S.d/- P.K. Gangopadhyay
Addl. District Judge,
13th Court, Alipore.