

Sunita Singh Vs. Kunal Singh

Sunita Singh Vs. Kunal Singh

SooperKanoon Citation : sooperkanoon.com/110581

Court : Jharkhand

Decided On : Jul-24-2017

Appellant : Sunita Singh

Respondent : Kunal Singh

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI F.A. No. 71 of 2016 ---
Sunita Singh --- ---- Appellant Versus Kunal Singh --- --- Respondent ---
CORAM: The Hon'ble Mr. Justice Aparesk Kumar Singh The Hon'ble Mr. Justice
B.B. Mangalmurti For the Appellant: Mrs. A.R. Choudhary, Advocate For the
Respondent: M/s Satish Kr. Ughal, Tapas Kabiraj, Advocates --- 11/ 24.07.2017
Heard counsel for the parties.

2. Appellant is the wife aggrieved by the judgment and decree dated 16.04.2016 / 29.04.2016 of judicial separation granted by the Learned Principal Judge, Family Court, Seraikella-Kharsawan in Matrimonial Suit No. 11/2008. The suit was preferred by the husband / Respondent herein for dissolution of marriage by a decree of divorce under section 13(1)(ia) of the Hindu Marriage Act, 1955.

3. Parties participated in the mediation process during the pendency of the appeal pursuant to the order dated 18.10.2016. However, efforts for an amicable settlement failed during mediation. Both parties appeared thereafter on 11.07.2017 pursuant to the order dated 20.06.2017. During the course of deliberation, a fresh proposal for settlement came from the side of the Respondent / husband. The

appellant was granted time to respond. When the parties appeared on 19.07.2017, they broadly agreed on the terms and conditions of settlement. The matter was adjourned for today to enable them to file a joint petition incorporating the terms and conditions. Parties are also present today. A joint compromise petition being I.A. No. 6039/2017 has been filed today containing the terms and conditions of their settlement, whereunder, they have agreed to separate on their own free will and volition. It is supported by an affidavit of both the parties. The terms of the settlement are incorporated herein-after.

2. The parties have agreed for divorce as per the following terms and conditions:-

(a) The respondent would pay a sum of Rs. 30 lakhs to the appellant within a period of one week as full and final settlement amount for divorce. The respondent would also pay the balance 55,200/- being the balance amount of maintenance within a week. (b) The respondent would pay Rs. 5 lacs for the education of the son within a period of one week. Further a sum of Rs. 1.5 lacs per year will 2. be paid for the education of the son for a period of 10 years. The amount of Rs. 1.5 lacs will be transferred in the account of the appellant in the 1st week of July every year commencing from July 2018. Thus, total amount of Rs. 20 lacs will be paid by the respondent to the appellant for the education of the son and no further amount will be paid for the purpose of his education. (c) The appellant would withdraw all the cases both criminal and civil filed by the appellant against the respondent and / or his family members within a period of one month from the date of receipt of the amount mentioned in point no. (a).

4. Learned counsel for the parties submit that reciprocal undertaking given by both of them would be complied. The Respondent / husband would pay a sum of Rs. 30+5 = Rs. 35 lakhs within a period of one week. The appellant / wife would also withdraw all the cases both criminal and civil within a period of one month. Learned counsel for the appellant submits that a writ petition WPC No. 2771/2009 instituted by the appellant / wife for enhancement of maintenance, is pending before this Court which the appellant would withdraw. It is further pointed out that Criminal Miscellaneous Petition No. 976/2008 filed by the Respondent / husband seeking quashing of the prosecution under section 498-A of the Indian Penal Code, is also pending before this Court. Appellant would also file appropriate

petition incorporating the terms of the instant settlement, so that criminal proceedings are quashed or dropped. Learned counsel for the appellant submits that another maintenance case is pending before the Learned Family Court at Seraikella-Kharsawan, which would also be withdrawn within the same time.

5. We have considered the joint compromise petition filed by the parties which incorporates the terms and conditions under which, they have agreed to separate on their free will and volition. We find no reason to adjudicate the present appeal on merits now. We are of the view that apart from the sum of Rs. 30.00 lakhs which is to be paid in the nature of permanent alimony to the appellant / wife, rest Rs. 5.00 lakhs which is to be paid within a week towards educational expense of the child (son presently studying in Class-V at Kerali Public School, Jamshedpur) should be kept in the name of the child under the guardianship of the appellant / mother in a interest bearing account / cumulative fixed deposit account for a period of five years. Any 3. withdrawal of the instant amount within a period of five years, would be made by the appellant / wife only after seeking permission of the Learned Principal Judge, Family Court, Seraikella-Kharsawan. The Respondent / husband, as per the terms agreed to, would pay a sum of Rs. 1.5 lakhs per year (apart from the above Rs. 5.00 lakhs towards education of his child) for a period of ten years to be transferred in the account of the appellant / wife in the first week of July every year commencing from July 2018. Thus, a total of Rs. 20.00 lakhs will be paid by the Respondent / husband to the appellant for the education of the son and no further amount will be paid for that purpose.

6. Having regard to the settlement arrived at between the parties, marriage between the parties stands dissolved. Decree would contain the terms of the compromise, as contained in the instant I.A. No. 6039/2017. Accordingly, appeal stands disposed of in terms of the compromise. Let the Lower Court Records be returned to the Learned court below forthwith. Both the appellant and the Respondent would file an affidavit on their behalf within a period of one month, showing compliance of the reciprocal undertaking incorporated in the settlement.

7. Let the case be placed under the heading 'for orders' on 04.09.2017 for the purpose of perusal of the affidavit. (Aparesh Kumar Singh, J) (B.B. Mangalmurti, J)

Ranjeet/

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com