

Vishnu Kumar Vs. State of U.P. and ors.

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SooperKanoon Citation : sooperkanoon.com/493902

Court : Allahabad

Decided On : Oct-06-2006

Reported in : AIR2007All31; 2007(1)AWC1010

Judge : Bharati Sapru, J.

Appellant : Vishnu Kumar

Respondent : State of U.P. and ors.

Disposition : Petition dismissed

Judgement :

ORDER

Bharati Sapru, J.

1. Heard learned Counsel for the petitioner and learned Standing Counsel.
2. The petitioner has filed the present petition being aggrieved by an order dated 7-4-2003 passed by the District Basic Shiksha Adhikari, Etawah, by which he has come to a conclusion that the petitioner was unable to establish the authority concerned that he was the lawful wedded husband of Smt. Geetha who expired on 9-8-2000.
3. In the present writ petition, the petitioner has disclosed in paragraph 6 of the writ petition that previously, Smt. Geeta Tewari was married to one Ashok Kumar and

decided to separate from him. The separation between Geeta Tewari and Ashok Kumar, her first husband was settled by both parties on 21-5-2000. The statement on record in Annexure-3, which also contains a stipulation that the separation itself gives a right to either party to enter into a fresh marriage. It is admitted to the petitioner who claims to be the second husband that he married Smt. Geeta Tewari after this settlement and, therefore, after she expired, he became entitled to be appointed under the Dying and Harness Rules on compassionate ground.

4. I have perused the impugned order. The authority has examined the matter and has rightly come to the conclusion that the present petitioner Shri Vishnu Kumar could not claim the status of a husband because as per the admitted facts, there was no valid divorce between Smt Geeta Tewari and her first husband. It could not be said by any stretch of imagination that a valid Hindu Marriage can be brought to an end by way of a settlement or compromise between the parties until it has the due sanction of law. Under the Hindu Marriage Act the settlement dated 25-1-2000 cannot, be accepted as a decree or a valid dissolution that took place between Geeta Tewari and her husband Shri Ashok Kumar.

5. The entire claim of the petitioner rests on the document dated 25-1-2000, which cannot be held to be a valid dissolution of a marriage. Therefore, really speaking, the petitioner has no claim.

6. In view of the facts and circumstances as narrated above, I have come to the conclusion that the impugned order dated 7-4-2003 contains no error of law.

7. This writ petition is wholly without any merits and is therefore dismissed.