

Raj Vinod Vs. Smt. Durga Devi

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Court : Uttaranchal

Decided On : Apr-24-2002

Reported in : I(2003)DMC231

Judge : A.A. Desai, C.J. and; Irshad Hussain, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 9, 13 and 13B

Appeal No. : First Appeal No. 5 of 2001

Appellant : Raj Vinod

Respondent : Smt. Durga Devi

Advocate for Def. : Sri. R. Dobhal

Advocate for Pet/Ap. : Sri. S.N. Babulkar

Judgement :

A.A. Desai, C.J. and Irshad Hussain, J.

1. Heard Sri S.N. Babulkar, learned counsel for the appellant and Sri R. Dobhal, learned counsel for the respondent. Parties are also present in person.

2. On 11.6.1985, parties Raj Vinod and Smt. Durga Devi were married. However, they could not stay together. Husband Raj Vinod, therefore, filed a petition under Section 13 of the Hindu Marriage Act for divorce. In the same proceedings, wife

Smt. Durga Devi by way of counter-claim demanded restitution of conjugal rights. Matters were heard together. The Judge, Family Court, Pauri Garhwal, by the judgment dated 7.2.2001 dismissed the claim of the husband for divorce. However, he allowed the claim for restitution of conjugal rights of the wife Smt. Durga Devi. Hence, the husband Raj Vinod presented the instant first appeal.

3. During the pendency, we held conciliation between the parties. Ultimately, they reached to a consensus that they cannot happily live together as husband and wife since their separation was for a substantial period of sixteen years. As a result of the consensus thus arrived at between them, they have decided to present joint divorce petition purported to be under Section 13B of the Hindu Marriage Act. Accordingly, petition has been filed.

4. The parties Raj Vinod and Smt. Durga Devi have verified their joint divorce petition/application filed in this Court. They have agreed to take divorce by mutual consent. Husband--Raj Vinod agreed to pay Rs. 2,25,000 (Rupees two lacs and twenty five thousand only) by way of full and final settlement of the maintenance payable towards wife, which she accepts.

5. Both the parties agree that out of their wedlock, there is no issue. As such, there is no question of custody or guardianship.

6. In view of this, judgment and decree dated 7.2.2001 is modified and order is passed in terms of the compromise as indicated above that the marriage be dissolved by decree of divorce with mutual consent. The amount of Rs. 2,25,000 (Rupees two lacs and twenty five thousand only) brought by the husband Raj Vinod by way of bank draft shall be deposited in S.B.I., Rudra Prayag for a period of five years. The said draft for the sum of Rs. 2,25,000 is handed over to Smt. Durga Devi in Court. Smt. Durga Devi shall be entitled to withdraw the interest thereon. The principal amount shall, however, remain deposited by way of fixed deposit for a minimum period of five years.

7. The appeal is disposed of accordingly.