

Flora Bose Vs. Suprotik Bose

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Court : Delhi

Decided On : Jul-23-2002

Reported in : 100(2002)DLT200; II(2002)DMC775

Judge : S.B. Sinha, C.J. and; A.K. Sikri, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 13(1)

Appeal No. : L.P.A. No. 212 of 1997

Appellant : Flora Bose

Respondent : Suprotik Bose

Advocate for Def. : Party in person

Advocate for Pet/Ap. : Sunil Mittal, Adv

Disposition : Appeal allowed

Judgement :

ORDER

1. The letters patent appeal arises out of an order dated 9th July, 1997 passed by the learned Single Judge in FAO No. 163/97 whereby and whereunder the appeal preferred by the appellant herein had been dismissed in liming. By reason of the said appeal the appellant herein had questioned the judgment and order of the Additional District Judge, Delhi in HCM No. 680/92 dismissing an application for

dissolution of marriage filed under Section 13-1 (ia) and (ib) of the Hindu Marriage Act.

2. A first appeal is a matter of right. On the date fixed for hearing of the said appeal even the caveator was not present. Learned Single Judge had no opportunity to go through the materials on record, particularly the evidence adduced by the parties in the absence of records of the learned Trial Court. In the afore-mentioned situation, we are of the opinion that the said appeal ought not to have been dismissed in limine. Further more, no reason has been assigned in support of the said order. For the reasons afore-mentioned, this impugned judgment cannot be sustained and is set aside accordingly. Appeal is remitted back to appropriate Bench for consideration of the matter on merits. The parties to appear before the appropriate Bench on 9th August, 2002.

3. Having regard to the fact that the first appeal was instituted in 1997, we request the appropriate Bench to consider the desirability of disposing of the appeal as expeditious as possible and preferably within a period of three months from the date of first hearing.

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