

ORDER**Dated: 04.09.2019**

This is an application filed u/s **13** of the Hindu Marriage Act, 1955 by the plaintiff Shri: Kamal Chandra Dey against his wife Smt. Sampa Dey praying for dissolution of the marriage between them on the ground of desertion.

After filing and registration of the present case, notices were directed to be issued and served upon the defendant wife. The order dated 24.06.2019 reveals that as per the report of the process server the summon/notice was served on the son of the defendant wife. Therefore the summon was deemed to be duly served upon the defendant.

As the defendant wife was absent without any steps it was directed that the case shall proceed exparte against her.

Thereafter on 21.08.2019 the plaintiff husband filed his exparte evidence on affidavit.

I have gone through the plaint as well as the evidence of the plaintiff husband on affidavit.

The plaintiff has asserted that both the parties to the suit are Hindus governed by Hindu Law and that they got married with each other in the year 1994 at Guwahati. Thereafter they started living as husband and wife at Harangajao in the district of Dima Hasao for 14 (*fourteen*) years since their marriage. Therefore both the parties to the marriage last resided together at Harangajao in the district of Dima Hasao. The plaintiff is a teacher by profession.

According to the plaintiff, out of the wedlock 2 (two) male children were born, one of whom is now a college going student and the younger one is a school going student.

According to the plaintiff, in the year 2008 the defendant wife left the house of the plaintiff on her own will to give better education to their children and for a few years the defendant stayed in her brother's house and thereafter the plaintiff managed a rented house for the defendant and their children.

The plaintiff is regularly paying maintenance to the defendant and for their children.

The plaintiff several times communicated and requested the defendant to come back to Harangajao and to live together with their children but the defendant refused and denied to come back to lead a conjugal life with the plaintiff.

In view of the above the plaintiff has prayed for a decree of dissolution of the marriage between the parties.

Section 13(1)(i-b) of the Hindu Marriage Act, 1955 provides that any marriage solemnized maybe dissolved by a decree of divorce on the ground that the other party has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition. The explanation to the section provides that desertion means desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party and includes the willful neglect of the petitioner by the other party to the marriage.

In the instant case the defendant wife has chosen not to contest the case in spite of due service of notice/ summons served to her. The case is proceeding exparte against the defendant wife.

Therefore all the assertions and allegations of the plaintiff husband have gone uncontroverted.

According to the pleadings as well as the evidence of the plaintiff husband both the parties to the marriage last resided together at Harangajao and as such this court has jurisdiction to entertain the present suit.

Further the uncontroverted allegations of the plaintiff husband disclose that the defendant wife left the matrimonial home at Harangajao in the year 2008 for better education of their children. However, later on when the plaintiff husband asked and requested the defendant wife to come back to their matrimonial house at Harangajao, she did not pay any heed to his requests and instead stayed at Guwahati.

From the above uncontroverted allegations of the plaintiff husband it is seen that the defendant wife deserted the plaintiff without any just or lawful cause or excuse for more than the statutory period of two years.

Under the aforesaid facts and circumstances of the case the plaintiff has been able to show and prove that his wife Smt. Sampa Dey deserted him for a continuous period of not less than two years.

Accordingly it is held that the plaintiff husband, Shri. Kamal Chandra Dey is entitled to decree of dissolution of his marriage with the defendant wife, Smt. Sampa Dey. Therefore the marriage between the parties be dissolved.

Petition for dissolution of marriage is allowed. The marriage performed between the plaintiff Sri Kamal Chandra Dey and defendant Smt. Sampa Dey in the year 1994 stands dissolved.

Prepare a decree accordingly within 15 days. Exparte order is pronounced in open court. The suit is disposed uncontested.

Given under my hand and seal of this court on this
the **4th** Day of **September 2019** at Haflong.


District Judge,
Dima Hasao, Haflong