

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.766 of 2023

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Kumar Karunesh Kaithal, son of Late Jagdeo Das, resident of Village and P.O- Bajitpur Kasturi, P.S-Desri, District-Vaishali, Bihar, presently at T3/304, Amolik Heights, Sector 88, Faridabad, Haryana 121002.

... .. Appellant/s

Versus

Seema Kaithal, wife of Kumar Karunesh Kaithal, resident of Village and P.O - Bajitpur Kasturi, P.S -Desri, District - Vaishali, Bihar, presently at Village and P.O -Bariyarpur, (Near Bhagwati Asthan), P.S - Sakra, District Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Prakash Chandra, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE S. B. PD. SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 25-09-2025

Heard.

2. The appellant has come up in this appeal against the order dated 09.10.2023 passed by the learned Principal Judge, Family Court, Vaishali at Hajipur in Divorce Case No. 05 of 2021, whereby the petition filed by the appellant-husband under Section 13(1) of the Hindu Marriage Act, 1955 (in short 'the 1955 Act') seeking dissolution of marriage by a decree of divorce, has been dismissed.

3. The learned Principal Judge, Family Court, Vaishali at Hajipur, while dismissing the divorce petition of



the appellant-husband has observed that since the respondent-wife resides at Muzaffarpur, the present Court lacks jurisdiction and the divorce petition was dismissed on the point of jurisdiction.

4. It is submitted by learned counsel for the appellant-husband that marriage of the appellant with the respondent was solemnized on 30.04.2006 according to Hindu rites and customs in a very simple manner without any dowry. The marriage was consummated and two children were born out of the wedlock. In the year, 2010, the appellant-husband got a job of Assistant Manager in Mail Today Newspaper Pvt. Ltd at Delhi and he settled along with his family at Delhi. The appellant alleged that after some times, the behaviour of the respondent-wife changed and she started quarreling with the appellant-husband without any good reason. The situation got worst and the behaviour of the respondent started effecting the normal family life of the appellant and his children. The respondent was creating nuisance in her own house, mercilessly beating the children, abusing the husband and wanted to move freely beyond any discipline of the husband



or family. The appellant made all his efforts to make her understand and tried to normalize the situation but all his efforts went in vein. Hence, he has sent a legal notice on 18.10.2011 through his advocate to the father of the respondent about the ill treatment of respondent-wife. The father of the respondent came to Delhi and took the respondent with him to Muzaffarpur. After living at Muzaffarpur, the appellant again took the respondent with him at Delhi. It is further alleged that during the period between 2011 to 2018, the behaviour of the respondent got worst. She started threatening to commit suicide or implicate the appellant in a false case. She always avoided to take care of her children and several times ran away from the house without proper information to the appellant.

5. The appellant further averred that all of a sudden, on 9.04.2018, the respondent left the house of the appellant and children without informing the appellant. The appellant has made an application before officer-in-charge, Milaswa Dairy, Delhi in this regard (*Annexure-III*).

6. The appellant has also filed a case under Section 9 of the Hindu Marriage Act for restitution of conjugal



rights before learned Principal Judge, Family Court, Rohini, New Delhi. In the aforesaid case, notices were issued to the respondent and thereafter *dasti* notice was issued on 21.01.2019 but she did not appear to contest her case.

7. The appellant, thereafter started facing problem of taking care of two minor children and lastly he left his job at Delhi and came to his native place at Vaishali in June, 2019. The respondent-wife came and resided with the appellant-husband for one month and again left her matrimonial house in July, 2019 and since then the respondent-wife has deserted the appellant-husband. The appellant, thereafter filed Divorce Case No. 05 of 2021 for dissolution of marriage with the respondent.

8. The appellant has examined altogether three witnesses in order to prove his case which are P.W. 1 Kumar Karunesh Kaithal (appellant himself), P.W. 2 Aashish Gaurav and P.W. 3 Om Prakash Das.

9. The respondent-wife has not examined any witness since she has not appeared to contest her case.

10. The learned Family Court, after perusing the materials available on record, has held that marriage of the



appellant was solemnized at Muzaffarpur. The couple last resided at Delhi. The respondent-wife is residing at Muzaffarpur. Hence, the present Court lacks territorial jurisdiction and it will not be proper to pass any order on merits.

11. We have heard learned counsel for the parties and perused the impugned order.

12. The learned Principal Judge, Family Court, Vaishali at Hajipur has dismissed the divorce petition of the appellant on the ground that the Court has no jurisdiction to entertain the divorce petition. Here, it is relevant to refer Section 19 of the Hindu Marriage Act which clearly defines the territorial jurisdiction for presenting petitions, stating they must be filed in the District Court of the place where the marriage was solemnized, where the respondent resides, where the parties last resided together, or where the petitioner resides if the respondent resides outside the Act's jurisdiction or has been unheard of for seven years. This section outlines specific locations that grant a court jurisdiction over matrimonial matters under the Act.

“19. Court to which petition shall be



***presented.**—Every petition under this Act shall be presented to the District Court within the local limits of whose ordinary original civil jurisdiction:—*

- (i) the marriage was solemnized, or*
- (ii) the respondent, at the time of the presentation of the petition, resides, or*
- (iii) the parties to the marriage last resided together, or*
- (iiia) in case the wife is the petitioner, where she is residing on the date of presentation of the petition; or*
- (iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.*

13. After going through the entire order of learned Family Court, it appears that there is no any grave error of law and illegality in appreciating the evidences available on the record.

14. Hence, we find no merit in the present appeal warranting any interference in the impugned judgment. The Family Court has rightly dismissed the matrimonial case of



the appellant seeking divorce.

15. The present appeal is dismissed accordingly, affirming the impugned judgment.

16. The appellant, however, is at liberty to file divorce petition under appropriate provisions of Hindu Marriage Act before the appropriate forum.

17. Pending I.A(s), if any, stand disposed of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, CJ)

Shageer/-

AFR/NAFR	AFR
CAV DATE	19/06/2025
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