

IN THE COURT OF THE ADDL.DISTRICT AND SESSIONS JUDGE
AIZAWL JUDICIAL DISTRICT : AIZAWL

Civil Misc. Appln. No. 348/14
A/o Divorce Petition No. 545/2014

P R E S E N T

Mr. Vanlalenmawia
Addl. District & Sessions Judge

Nirmala Devi : Applicant
D/o Itu Pun
R/o Mission Veng, Aizawl, Mizoram.

Versus

J. Budhi Sagar : Opposite Party
Trained S.A., P.H.E. Department,
R/o Tumpui (Near P.W.D. Quarter),
Kolasib, Mizoram.

Date of Order : 6.2.2015

A P P E A R A N C E

For the Applicant : Ms. Rashila Thapa, Adv.
For the Opposite Party : Mr. B. Lalramenga, Adv.

O R D E R

An application under Order XIII, Rule 1 r/w Section 151 of CPC was filed by the applicant for annexing additional documents to the Divorce Petition No. 545 of 2014.

In the application, it is stated that the applicant failed to annex important documents at the time of filing Divorce Petition to support her case which according to her is that she did not possess the said documents. However, the documents furnished to the applicant by the Gorkha Gaon Panchayat were relevant for adjudication of the Divorce Petition.

I heard the Id. Counsel Ms. Rashila Thapa, appearing for the Applicant and the Id. Counsel Sh. B. Lalramenga for the Opposite Party.

According to the Id. Counsel Ms. Rashila Thapa, the Opposite Party ill-treated the Applicant, as a result of which they have been separating since 2.1.2007. The Id. Counsel submitted that the Opposite Party married a second wife with whom they had one issue without obtaining Divorce Certificate. Hence, the Id. Counsel made a prayer to allow annexing the additional documents to the Divorce Petition in the interest of justice.

On the other hand, written objection was also filed by the Opposite Party. According to the Id. Counsel Sh. B. Lalramenga, the Applicant wanted to develop her case in Divorce Petition which according to the Id. Counsel, is in no way helps her for the purpose of adjudication. The Id. Counsel submitted that the first point which is required to prove by the Petitioner is whether marriage between the Applicant and the Opposite Party was solemnized in accordance with the provision of Section 7 of the Hindu Marriage Act, 1955. The Id. Counsel further submitted that the additional documents are not in any way helpful for adjudication of the case inasmuch as the deliberation taken place in Gorkha Gaon Panchayat is not relevant to the case.

The sole issue taken up here is as follow: -

- a) Whether the additional documents are relevant for the purpose of adjudication of Divorce Petition No. 545 of 2014?

b) Whether the Gorkha Gaon Panchayat has authority to declare as marriage taken place between the Applicant and the Opposite Party?

Section 13 of the Hindu Marriage Act provides that in order to get divorce decree, the parties as husband and wife should be married and solemnized. Section 7 of the Hindu Marriage Act also provides that a Hindu marriage may be solemnized in accordance with the customary rights and ceremonies of either parties thereto and such rights and ceremonies include the sapthapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), and the marriage becomes complete and binding when the seventh step is taken. The bare fact of a man and woman living as husband and wife does not give them status of husband and wife even though they may hold themselves as husband and wife before society and the society treats them as husband and wife. In the situation, since solemnization of marriage of the Applicant and the Opposite Party are not witnessed by the Gorkha Gaon Panchayat, any deliberation taken place in it, cannot in any way helps Court for adjudication of the Divorce Petition.

Upon the second issue, I do not find that the Gorkha Gaon Panchayat is given authority to declare marriage of the Applicant and Opposite party.

Hence, I do not find any merit in the application filed by the Applicant, the application is therefore dismissed.

The application is disposed off.

Sd/- VANLALENMAWIA
Addl. District & Sessions Judge
Aizawl Judicial District : Aizawl

Memo No _____ AD&SJ/2015 : Dated Aizawl, the 6th February, 2015

Copy to:-

1. Nirmala Devi through Counsel Ms. Rashila Thapa, Advocate.
2. J. Budhi Sagar through Counsel Mr. B. Lalramenga, Advocate.
3. District Judge, Aizawl Judicial District.
4. Registration Section.
5. Guard File.
6. Case Record.
7. Calendar Judgment.

P E S H K E R