

IN THE COURT OF ADDITIONAL DISTRICT JUDGE
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS
Additional District Judge,
Aizawl Judicial District, Aizawl.

Divorce Petition No. 545 of 2014

Smt. Nirmala Devi
D/o Itu Pun,
R/o Mission Veng, Aizawl, Mizoram.Petitioner

-versus-

Shri J.Buddhi Sagar
Trained S/A (PHE Department),
R/o Tumpui (Near PWD Quarter)
Kolasib, Mizoram.Respondent.

APPEARANCE

For the petitioner : Shri Rashila Thapa, Advocate.
For the respondent : Shri B.Lalramenga, Advocate.

Hearing : 5.3.2015
Order delivered on : 18.3.2015

ORDER

1. The petition has been filed under Section 13 of the Hindu Marriage Act, 1955 for dissolution of her marriage with the respondent.
2. The petitioner is serving as LDC in the office of Kolasib Division, P.W.D and the respondent as trained S.A., Kolasib Division, P.H.E. She has four major issues with the respondent.

3. The respondent married another woman during judicial separation and the respondent has been staying with his wife at his residence. Out of the second marriage, the respondent has one issue.

4. The case of the petitioner in brief, is thus:

She got married to the respondent under the Hindu Customary Law. Both the parties are Hindus and governed by the Hindu Law. During the marriage, she was treated with cruelty by the respondent, the latter used to pick quarrels with her on false allegation. The respondent used to abuse her in filthy and vulgar language even in others presence. The cruelty shown to her was much, so they lived separately since 2.1.2007 without obtaining Divorce Certificate.

5. I heard the learned Counsel appearing for the petitioner as well the learned Counsel for the respondent.

6. The submissions of both the rival parties are considered.

7. The first point for consideration is that whether the divorce petition is maintainable in its form and style and whether there was a valid marriage between the petitioner and the respondent. When perusing the petition available before me, there is no mention of any place of marriage, the date of marriage, how the marriage ceremony was performed and any documentary proof of the marriage. It is submitted by the learned Counsel Shri B.Lalramenga appearing for the respondent that there was no marriage ceremony between the petitioner and the respondent which is required under Section 7 of the Hindu Marriage Act, 1955 which is not seriously objected by the learned Counsel for the petitioner. According to the learned Counsel, the petitioner and the respondent had been living under the same roof, cohabiting such a long time without having a valid marriage. However, the petitioner has no material to buttress her stand that she had a valid marriage with the respondent under Section 7 of the Hindu Marriage Act.

8. The second point for consideration is that whether divorce decree can be granted to the petitioner under Section 13 of the Hindu Marriage Act, 1955. In order to

get a divorce decree under Section 13 of the Marriage Act, 1955, a petitioner has to have marriage solemnization as per requirement of Section 7 of the Marriage Act, 1955. In the case before me, since the petitioner is unable to prove her marriage with the respondent in accordance with Section 7 of the Act, I find that divorce decree cannot be granted to the petitioner under Section 13 of the Act.

9. Accordingly, the petition for a divorce decree is rejected in view of the discussion and finding stated above.

Sd/- VANLALENMAWIA
Addl. District Judge,
Aizawl Judicial District,
Aizawl, Mizoram.

Memo No._____/ADJ(A)/2015 : Dated Aizawl, the 18th March, 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, Aizawl.
4. Registration Section.
5. Guard File.
6. Case Record.
7. Calendar Judgment.

P E S H K A R