

(2017) 03 JH CK 0054
In the Jharkhand High Court
Case No : 155 of 2015

Associated Cement Companies Ltd.

APPELLANT

Vs

The Union of India,

RESPONDENT

Date of Decision : 08-03-2017

Acts Referred:

Citation : (2017) 03 JH CK 0054

Hon'ble Judges : H. C. Mishra, Dr. S.N. Pathak

Bench : DIVISION BENCH

Advocate : Jashwar Sah

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the appellant. The respondent has not appeared in spite of notice and she has refused to accept the notice.
2. The appellant is aggrieved by the Judgment and Decree dated 23.06.2015, passed by the learned Principal Judge, Family Court, Garhwa, in M.M. Case No. 83 of 2014, whereby the suit filed by the petitioner appellant for restitution of conjugal rights between the parties, was dismissed by the Court below.
3. The parties are governed by the Muslim Law and the marriage between them had taken place in the year 2013. Thereafter the wife was living with her husband at her matrimonial home and according to the petitioner appellant's case, she went back to her parents' place on the pretext of marriage in her Gotia on 24.3.2014, and thereafter she did not return back. When the petitioner appellant went to bring her back, there was demand of Rs. 2,90,000/- agreed as Dain Mehr, and she refused to come back.
4. The respondent wife had appeared in the Court below upon notice, and according to her written statement she was being subjected to cruelty and torture at her in-laws' place, due to which she had to leave the matrimonial home.

5. The impugned Judgment shows that witnesses were examined on behalf of both the parties and even documentary evidence was adduced by the respondent-wife. The impugned Judgment also shows that while the evidence was going on in the Court below, by the order of the Court the husband had taken his wife along with him to the matrimonial home, but on the next date she returned back to the Court and she again complained that she was subjected to cruelty and torture in the meantime.

6. Needless to say that witnesses examined on behalf of the petitioner appellant had supported the case of the appellant whereas the witnesses examined on behalf of the respondent wife had supported the case of the respondent, but in view of the fact that by the order of the Court she was taken to her matrimonial home, where again she complained of ill-behaviour and stated that she was not kept properly, the Court below on the basis of the evidence found that the petitioner himself was responsible for living the wife separately, and accordingly, dismissed the suit.

7. Learned counsel for the appellant has submitted that the impugned Judgment passed by the Court below cannot be sustained in the eyes of law, inasmuch as, the witnesses examined by the appellant in the Court below had fully supported his case and stated that the wife had left the matrimonial home at her own and when her husband went to bring her back, she refused to come back. Learned counsel accordingly, submitted that it is a fit case in which the suit ought to have been decreed.

8. Upon going through the impugned Judgment, we find that the witnesses examined on behalf of the respondent, including the respondent herself had stated about the ill-behaviour of the petitioner and her in-laws, and during the Court proceeding also, by the order of the Court she was taken to her matrimonial home where again she alleged the same treatment and accordingly, the Court below has placed reliance upon the evidence of the respondent wife and has dismissed the suit.

9. We do not find any illegality in the impugned Judgment and Decree dated 23.06.2015, passed by the learned Principal Judge, Family Court, Garhwa, in M.M. Case No. 83 of 2014.

10. There is no merit in this appeal and the same is accordingly, dismissed.