
(2004) 02 DEL CK 0085
In the Delhi High Court
Case No : Mat R. No. 4 of 2001

Mrs. Zena Mary Rodgers

APPELLANT

Vs

Mr. Troy Steven Rodgers and Others

RESPONDENT

Date of Decision : 06-02-2004

Acts Referred:

Divorce Act, 1869 — Section 17

Citation : (2004) 02 DEL CK 0085

Hon'ble Judges : B.C. Patel, C.J; Sanjay Kishan Kaul, J; Badar Durrez Ahmed, J

Bench : Full Bench

Advocate : F. Kapoor, for the Appellant; None, for the Respondent

Judgement

Badar Durrez Ahmed, J.—This is a Matrimonial Reference u/s 17 of the Indian Divorce Act, 1869. By a Judgment and Order dated 8.6.2001, the learned Additional District Judge allowed the petition of the petitioner (wife) which had been filed u/s 10 of the Indian Divorce Act, 1869, for dissolution of her marriage with the respondent No.1 (Mr. Troy Steven Rodgers) on the ground of adultery coupled with cruelty. The petitioner and the respondent No.1 are Christians and they had a Christian marriage on 3.2.1996 at Masihgarh Church at Okhla, Delhi. In the petition for divorce, the petitioner made various allegations including the allegation of adultery committed by the respondent No.1 with the respondents 2 and 3. Several instances have been narrated in the petition. The respondents could not be served through ordinary process. Insofar as the respondent No.3 was concerned the petitioner was unable to furnish her complete address and, Therefore, she withdrew her case against respondent No.3. As regards respondents 1 and 2, the Trial Court ordered that they be served through publication as attempts to serve them through the ordinary process had failed. Publication was made. However, Respondents 1 and 2 did not appear and accordingly, they were proceeded ex parte.

2. In her ex parte evidence, the petitioner examined herself as PW-1 and her mother as PW-2. Initially the petition filed by the petitioner was on the ground of

adultery, coupled with cruelty and adultery coupled with desertion without reasonable excuse for two years or upwards. However, on examining the evidence on record and considering the arguments advanced by the advocate on behalf of the petitioner, the learned Additional District Judge came to the conclusion that the petitioner had no case to seek divorce on the ground of desertion. Insofar as the ground of cruelty coupled with adultery, the learned Additional District Judge, after examining the case in detail, has come to the conclusion that there was evidence galore on the point of adultery as well as the cruelty caused by respondent No.1 to the petitioner. He, accordingly, allowed the petition and dissolved the marriage between the petitioner and respondent No.1 by a decree of divorce on the ground of adultery coupled with cruelty subject to confirmation by this Court u/s 17 of the Indian Divorce Act, 1869.

4. We have examined the judgment and the material on the record and we find that there is no infirmity in the judgment and/decreed passed by the Additional District Judge and we confirm the same.

5. The Reference is disposed of accordingly.