
(2004) 07 JH CK 0058
In the Jharkhand High Court
Case No : S.A. No. 302 of 2003

Nadam Rawani

APPELLANT

Vs

Laxmi Kant Rawani and Others

RESPONDENT

Date of Decision : 13-07-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100

Citation : (2004) 4 JCR 303

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Amar Kr. Sinha, for the Appellant;

Final Decision : Dismissed

Judgement

Narendra Nath Tiwari, J.—This appeal is by the defendant-appellant- appellant against the concurrent findings of fact recorded by the trial Court as well as by the lower appellate Court on due consideration of the evidences on record.

2. The learned counsel appearing on behalf of the appellant has sought to assail the findings of the Courts below mainly on the basis that in the instant case there was a controversy regarding the divorce of Linmoni Devi by her husband. According to the learned counsel, the said issue was not specifically framed and as such it has caused serious prejudice to the defendant. The next contention of the learned counsel appearing for the appellant is that the findings recorded by the Courts below are not based on proper appreciation of the evidences on record and as such the same are vitiated.

3. Having heard the learned counsel appearing for the appellant and perused the judgment and decree of both the Courts below I find that although no issue regarding divorce of Limoni Devi by her husband was specifically framed. Yet both the parties addressed the issues before the trial Court as well as before the appellate Court and they were in full knowledge of the same. They also availed the opportunity in their pleadings and also adducing evidences in support of their

stands over the said controversy. The Courts below have also considered all the evidences on the same and concurrently found that the defendant failed to establish the said plea that Linmoni Devi was divorced by her husband.

4. The defendant-appellant had taken said specific ground before the lower appellate Court and the lower appellate Court has properly considered the same and concurred with the finding of the trial Court. So far the next ground of non-appreciation of the evidences is concerned, I find that there is no substance in the submission of the learned counsel as I find from the records that the Courts below have thoroughly examined and considered the evidences both documentary and oral and recorded their findings. I find no infirmity in the findings of the Courts below attracting any substantial question of law. There is thus no merit in this appeal. It is accordingly dismissed.