

**HIGH COURT OF TRIPURA
AGARTALA**

CRP 35 of 2021

Shri Abhijit Roy
Son of Late Dipak Ranjan Roy,
Resident of Harer Khola,
Near Kampur Dak Bunglow,
PO, PS & Sub-Division: Kamalpur,
District: Dhalai, Tripura, PIN: 799285

----Petitioner(s)

Versus

Smt. Gayitri Bhattacharjee,
Daughter of late Rohini Bhattacharjee,
C/o: Shri Sarajit Banik,
Resident of Surjya Para, Near Kamalpur Police Station,
PO, PS & Sub-Division: Kamalpur, District-Dhalai, Tripura
PIN: 799285

----Respondent(s)

For Petitioner(s)	: Mr. S. Lodh, Adv.
For Respondent(s)	: Mr. H. K. Bhowmik, Adv.
Date of hearing & date of passing judgment and order	: 23.12.2021
Whether fit for reporting	: NO

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order

Heard both sides.

[2] The petitioner-husband is before this court. Aggrieved by the order passed by the court below in passing an order of setting aside the ex-parte divorce decree which is filed by the respondent-wife herein against the order of divorce decree which is obtained by the petitioner-husband in his favour behind the back of the wife, it is her case that she was not having knowledge about the same. Based on the petition made by the petitioner's wife in the court below, the trial court has set aside the order and restored the divorce.

[3] Aggrieved thereby, the present petitioner-husband is before this court seeking to set aside the order dated 30.03.2021 passed in Civil Misc (Restoration) No.03 of 2019 in divorce decree by this court. The petitioner also submits that that the said order dated 30.03.2021 is liable to be dismissed and the ex-parte divorce decree needs to be restored and the CRP needs to be allowed.

[4] During the course of the argument, the counsel for the respondent-wife has also filed IA 1 of 2021 praying for awarding maintenance of Rs.10,000/- a month or permanent alimony of Rs.10,00,000/-. Without expressing any opinion on this maintenance application, this court is inclined to pass orders on the main CRP.

[5] When the court intends to put a quietus to this litigation between the husband and wife, the husband who is the petitioner is present before this court submits that he is unable to maintain himself. He is staying in a hut and he is depending on his sister. On the other hand, the respondent-wife submits that he is having a shop wherein he is conducting a business and he is also having other source of income in extending the works in MNREGA. After obtaining the divorce decree even without waiting for appeal period/limitation, the petitioner has married again and he is living a family life. It is apparent from the record that both the petitioner and the respondent are blessed with a son who is a student and unemployed and his future and his career and the survival of the respondent-wife is at stake and the respondent-wife prays for granting some relief.

[6] In view of the disputes and both parties not coming to an understanding, this court opines that it is not proper to pressurize them to settle the issue and thus order is passed on merits in the present CRP. The order passed by the court below in setting aside the ex-parte divorce decree and restoring the same, this court finds that the said order is just and proper and needs no interference. An opportunity of being contest should be given to the respondent-wife and on some trivial and technical reasons, the family dispute cannot be ended.

In view of the same, the present CRP is dismissed.

Order passed by the trial court is restored.

The respondent wife is at liberty to take all legal steps in support of their claims before the appropriate court by way of an appropriate application in accordance with law.

The parties are present.

Their appearance is dispense with.

Interlocutory application, if any, also stands closed.

JUDGE

