

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.83 of 2025

CNR No. BRHC010090932025

... .. Appellant/s

Versus

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sagar Suman, Advocate

For the Respondent/s : Mr. Rohitabh Das, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

and

HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date: 05-10-2026

1. The instant matrimonial appeal is directed against the judgement and decree of dismissal of Matrimonial (Divorce) Case No. 5313 of 2014, decided by the Additional Principal Judge, Family Court at Patna under Section 10(1) of the Indian Christian Marriage Act, 1872.



2. Indisputably, the marriage between the parties were solemnized on 24th of January, 2010 according to christian rights and ceremonies in a church at Patliputra Colony, Patna, Bihar.

3. The applicant / wife was a resident of Bilashpur in the State of Chhattisgarh. For the purpose of marriage, she along with her family members had to come to Patna and stay there for few days before marriage for solemnization of marriage. It is further contended by the petitioner that the father of the petitioner paid a sum of Rs. 5,00,000/- in the said marriage to the defendant-husband. Additionally, he paid Rs. 6,00,000/- for purchasing furniture to the defendant. After marriage, they started to live in the house of the defendant-husband as husband and wife. There she noticed that one maid servant, named, Sheela, was all in all in the family of her husband. Her husband had no other person and the applicant practically used to spend her days as a maid under the instructions of the said Sheela. She also noticed unnatural close relationship of her husband with the said lady. When she objected, she was abused by her husband, physically assaulted and subjected to mental cruelty. On 10th of March, 2010, failing to bear such torture, the applicant went to her paternal house at Bilashpur. The defendant-husband came Bilashpur on 14th of



March, 2010 and tried to take her back to Patna but she refused to come. It is contended by the applicant-wife that her husband is a man of means. He deals with the surgical items at Ashok Rajpath, Patna. He earns Rs. 3,00,000/- per month at the relevant point of time. Apart from the said income, he has huge landed property. On the other hand, the applicant is a housewife having no source of income.

4. The respondent filed a written statement, denying all allegations made out in the plaint by the applicant. He specifically denied any illicit relationship with any lady. He also denied the allegation of cruelty and also the allegation of having huge amount of income. On the other hand, he submits that he carries on his life as philanthropist, imparting education to 25-30 poor children.

5. On the basis of the pleadings, the learned Trial Judge framed as many as five issues and finally came to the conclusion that the applicant failed to prove her case and she is not entitled to get any decree of divorce.

6. We are surprised to note that the learned Trial Judge considered the case under Section 10(1) of the Christian Marriage Act, 1872. The said Act does not govern dissolution of marriage for christian couples in India. The Divorce Act, 1869 is



the governing Act for divorce for christian couples in India. It deals with the dissolution of marriage between a man and the woman in the christian community. It is a codified Indian Personal Law. It states that when either the husband or the wife files a petition for divorce, the Court of Law grants separation in accordance with the provisions of the Act. The provisions of the Act deals with various rights after divorce which include grounds for dissolution of marriage, custody of child, alimony, distribution of property visiting the child and likewise.

7. It is unfortunate to note that a Judicial Officer in the rank of Additional Principal Judge, Family Court at Patna passed an order in a suit without even verifying the Statute applicable to adjudicate the lis. It is not only an ignorance, but sheer negligence on the part of the concerned Trial Judge. If this happens, we are afraid about the future of judiciary in the State of Bihar.

8. Be that as it may, marriage of the parties were solemnized on 24th of January, 2010. From the materials on record, it is ascertained that the appellant left her matrimonial home on 10th of March, 2010.

9. It is contended by the husband respondent that after marriage, the appellant used to pick up quarrel with him on



small household matters. The respondent had a maid servant, who used to work in the house of the respondent from before his marriage. The appellant alleged that the respondent had illicit relationship with the maid servant. The said maid servant was examined on behalf of the respondent. She said in her deposition that she had been working for about 20-25 years in the house of the respondent. She used to stay in the same house. She did not know the reason for dispute between the parties.

10. The appellant, on the other hand, deposed that the said maid servant was practically all in all in the family of her husband. She also alleged that her husband had illicit relationship with the said lady and when she protested, her husband assaulted her physically.

11. On perusal of the lower court records, especially the deposition of the parties, we find that the appellant failed to prove the allegation of adultery. However, there shall be no order as to costs. It is amply proved that the appellant has deserted her husband since 2010 and the matrimonial case was filed in the year 2014. Thus, the appellant has deserted the respondent for more than two years immediately before presentation of plaint. On the ground of desertion, the appellant is entitled to get a decree of dissolution of marriage by divorce.



12. In view of the above discussion, we have no other alternative but to set aside the judgement passed by the Trial Court. Accordingly, the judgement and decree of dismissal of Matrimonial (Divorce) Case No. 5313 of 2014, decided by the Additional Principal Judge, Family Court at Patna under Section 10(1) of the Indian Christian Marriage Act, 1872, is set aside.

13. The instant appeal is allowed.

14. The appellant do get a decree for divorce against her husband, namely _____ from the date of delivery of this judgement. Marital tie between the parties is also dissolved.

15. Now comes the question of permanent alimony. It has already been recorded that the appellant did not come forward to contest the instant appeal. However, the appellant filed affidavit of assets and liabilities on 10th of December, 2025. It is found from the said affidavit that on the date of filing of the affidavit, the appellant was 40 years of age. In paragraph 17 of the affidavit, she has stated that she is dependent upon her paternal home. In paragraph no. 22, she has stated that she was granted maintenance at the rate of Rs. 10,000/- per month vide order, dated 23rd of December, 2019, passed in MJC No. 180 of 2019 by the Additional Principal Judge, Family Court at



Bilashpur and the respondent has refused and neglected to pay maintenance amount since February, 2025. It is also stated in the affidavit of assets and liabilities that the respondent husband has an X-ray Clinic and a shop for surgical items, situated at Ashok Rajpath, Patna. He has a Doctors Clinic. He is the owner of St. Sebastian School. He also runs a business of real estate. He is a practicing Advocate of Patna High Court and a Marketing Consultant. He has his own house at Patlaputra Colony, Patna, one of the most sophisticated locality of the city. The appellant also stated that respondent does not have any liability. The appellant states her total liability per month at the rate of 40450/-

16. The respondent has also filed his assets and liabilities. It is stated by him that as per income tax return, his total income for the assessment year 2025-26 is 1,73,740/- and his rental income is 2,48,000/-, total being Rs. 4,21,740/-. As there was gap of difference between the claim of the contesting parties with regard to assets and liabilities, we decided to appoint a Special Officer to find out the extent of property owned by the respondent. The Special Officer submitted his report on 30th of September, 2026. It is pertinent to reproduce the report of the said Special Officer hereinbelow: -

"IN THE HIGH COURT OF JUDICATURE AT



PATNA
Misc. Appeal No. 83 / 2025

-Versus-
..-Respondent

"REPORT SUBMITTED IN COMPLIANCE OF
THE ORDER DATED 17.09.2026
MOST RESPECTFULLY SHEWETH

1. That instant report is submitted in compliance of the directions passed by the Hon'ble Court vide order dated 17.09.2026 whereby the Hon'ble Court directed the undersigned to make a discreet verification of the actual assets and liabilities of the respondent (husband), as well as his earnings from the following sources: -

- (i) X-Ray & Surgical, opposite Women Hospital, Ashok Rajpath, Patna;
- (ii) — Doctor's Clinic;
- (iii) St. Sebastian School;
- (iv) Advocate, Patna High Court;
- (v) Real Estate Management; and
- (vi) Marketing Consultant.

X-Ray & Surgical

2. That in compliance of the directions passed by the Hon'ble Court, I visited Ashok Rajpath, Patna to search for the shop 'X Ray and Surgical' owned by the Respondent and upon enquiry by other shopkeepers and local persons, I located the shop and found the shop to be in closed state.

3. That upon enquiry from the local persons and other shopkeepers, it was found that the shop is not functional from last 2-3 years. I was informed that after the death of father of Respondent, a medicine shop "Pradhan Mantri Jan Aushidhi Kendra" was opened which was also closed shortly after opening.

4. That I visited the shop at different times on different days to ascertain if shop opens anytime of the day, however, the shop was found closed all the time.

**Photographs of shop are
attached as Annexure 1 for kind perusal**

Doctor's Clinic

5. Upon enquiry, it was found that no doctor's clinic is



functional either in the house of the Respondent or in the shop situated in Ashok Rajpath, Patna.

St. Sebastian School

6. Upon enquiry from neighbours of the Respondent, it was found that a St. Sebastian School was running from the house of the Respondent, however, the same is not functional since last 3-4 years.

7. No sign board / nameplate of St. Sebastian School was found on the house of Respondent.

Advocate, Patna High Court

8. I looked for filings for last three years against the AUIIN of Respondent i.e. 104649 and I found one case filed against the AUIIN of the Respondent vide TEST CASE-18360/2025 filed on 31.07.2025 and the same was disposed on 10.09.2026.

**Case status of TEST CASE-18360 /
2025 is attached as Annexure 2 for
kind perusal**

**Real Estate Management and Marketing
Consultant.**

9. I made a discreet enquiry from the neighbours of the Respondent in New Patliputra Colony, Patna and it was found that Respondent is not engaged in such business of Real Estate or Marketing Consultant.

Property owned by the Respondent

10. Petitioner is the owner of the plot admeasuring

Patna
as well as a house constructed thereupon.

**A copy of Jamabandi is attached as
Annexure 3 for kind perusal.**

11. Petitioner is owner of Petitioner is the owner of a house (G + 1) constructed upon the aforesaid plot.

**Photographs of house are attached as
Annexure 4 for kind perusal.**

12. Upon visiting the house of Respondent on



25.09.2026, I found that right behind the house of the Petitioner, **a vacant plot admeasuring 3.5 - 4 Katha was also in ; the possession of the Respondent** with a duly | constructed boundary thereupon and it had full grown trees.

13. Upon query, though the Respondent admitted the said plot is in his possession since more than 20 Years, however, did not provide any documents / details about the same.

14. Upon searching the records from Patna Municipal Corporation, it was found that the area of plot declared by Respondent is **9322 Sq Ft** and the declared constructed area as **3572 Sq Ft, thus the records of Patna Municipal Corporation show __that__ the Respondent is owner of plot admeasuring 9322 Sq Ft in New Patliputra Colony, Patna.**

Property details from Patna Municipal Corporation are attached as Annexure 5 for kind perusal.

15. Upon discreet enquiry from the neighbours, I found that the adjacent vacant plot was used as a playground of St. Sebastian School when it was functional and sometimes the said vacant plot was also used by neighbours for party / functions / parking.

Income from Residential Property

16. Respondent has a shop in his residential property. Details are provided hereunder,

Name	Monthly Rent	Rent Agreement available or not
Logos Christian Books and Music Centre	Rs. 15000	Available

Photographs of Logos Christian Books, receipt and Music Centre and | Agreement is attached as Annexure 6 for kind perusal.

Additional Information

17. Upon searching for the details of property of the Respondent, it was found that Respondent has mortgaged his property measuring **2 Katha 13 Dhur 6.4 Dhurki (8.36 Decimal) (3630 Sq Ft)** situated at | Mauza- Mainpura, Pargana & Survey Thana- Phulwari, Thana No. 02, Present



Thana-Digha, Khata No. 491 and 392, Survey Plot No. 953
and 960, District- Patna
with Yes Bank Ltd. vide **Registered Mortgage Deed No. 21219**
dated 31.12.2024

**Copy of Mortgage Deed is attached
as Annexure 7 for kind perusal**

18. From perusal of the registered mortgage deed, it is found that a commercial loan has been borrowed by one "M/s **Aryabhat Tecnotrader Pvt. Ltd.**" having its registered office address at Nehru Nagar, Mainpura, Near Vishal Hanuman Mandir, Patna-800001 for a sum of **Rs. 9.80 Crores** wherein three properties and fixed deposits of Rs. 1.5 Cr were kept as collateral by Yes Bank Ltd.

19. Among, three properties kept as collateral by Yes Bank Ltd., one property belongs to the Respondent.

20. Value of the property as declared by the Yes Bank Ltd. in the mortgage deed is Rs. 4 Crores.

21. M/s **Aryabhat Tecnotrader Pvt. Ltd.** is engaged in construction related works and has participated in different tenders floated by Government of Bihar.

22. Two writ petitions (**CWJC No. 3551 /2025** and **CWJC No. 3557 / 2025**) filed by M/s Aryabhat Tecnotrader Pvt. Ltd. were found pending in Hon'ble Patna High Court.

Prepared and submitted by
Dhananjay Kashyap
AUIN- 101879
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17. As per the income tax return and rental income, the total income of the respondent is Rs. 4,21,740/-. The Special Officer's report discloses another income of Rs. 15,000/- per month, i.e., 1,80,000/- per annum from the rent receipt by the respondent from Logos Christian Books and Music Centre. The respondent has residential house of 2 Katha, 13 Dhur and 6.4 Dhurki (8.36 Decimal) (4630 Ft.). He mortgaged his property



and fixed deposits of Rs. 1.5 crore to obtain commercial loan for a sum of Rs. 9.80 crores for Ms. Aryabhat Technotrader Pvt. Ltd. The said company deals with real estate business. Value of the mortgaged property was declared by Yes Bank Limited as Rs. 4 crores.

18. Thus, beside the above declared income and rental income, the respondent is the owner of property worth Rs. 4 crores. Therefore, the respondent is a man of substance. The appellant stated her monthly expenditure at Rs. 40,450/-. In order to have the said amount, the appellant needs at least permanent alimony of Rs. 50,00,000/- and if the said amount is kept in fixed deposit, she may earn Rs. 40,000/- per month and maintain her livelihood.

19. In view of such circumstances and for the reasons stated above, we are of the considered view that the respondent is under obligation to pay a sum of Rs. 50,00,000/- to the appellant towards permanent alimony. Such amount shall be paid within a period of three months from the date of this order. On payment of such amount, the respondent does not require to pay the maintenance allowance. On payment of permanent alimony, any case pending between the parties, arising out of matrimonial relation shall be dropped by the concerned courts.



20. With the above order, the instant appeal is disposed of.

(Bibek Chaudhuri, J)

(Rana Vikram Singh, J)

skm/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.10.2026
Transmission Date	N/A

