

IN THE SUPREME COURT OF INDIA**CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. _____ OF 2025
(Arising out of SLP(C) No.10130 of 2025)

SHRI SARVESH KUMAR SHARMA**APPELLANT****VERSUS****SMT. SARVESH KUMARI SHARMA****RESPONDENT****O R D E R**

Heard Mr. Ranjan Mukherjee, learned counsel for the appellant.

2. Leave granted.

3. The present appeal is directed against the impugned order dated 03.09.2024 passed by the High Court of Judicature at Allahabad in First Appeal No.715 of 2004, by which the High Court while affirming the order dated 28.04.2004 passed by the Additional District Judge/Special Judge, Budaun, Uttar Pradesh in Matrimonial case No.208 of 1995, has dismissed the appeal filed by the appellant-husband seeking dissolution of marriage by a decree of divorce.

4. Learned counsel for the appellant submitted that the marriage between the parties took place in the year 1980 and

intermittently, for various periods, the respondent-wife came to the matrimonial home but thereafter, from the year 1995, she has not been to the matrimonial home i.e., the couple have not lived together even for a single day from then till date. It was submitted that the Additional District Judge/Special Judge, Budaun, Uttar Pradesh had refused to grant divorce because of the fact that cruelty or desertion on the part of the respondent was not proved. Learned counsel submitted that the High Court has also upheld the order of the Additional District Judge/Special Judge, Budaun, Uttar Pradesh only on a premise that cruelty was not proved since the respondent-wife had withdrawn the criminal cases. However, it was submitted that today, the parties are in a position where the respondent-wife had chosen not to appear before the High Court and even before this Court, she has not appeared.

5. Having considered the matter from various angles, we are of the considered opinion that the orders of the Courts below need interference. It is true that facts speak for themselves. In the present case, at least, it is not in dispute that since 1995 i.e., almost for the last 30 years, the parties are not living together. It is also true that the respondent-wife has not appeared before the High Court and even before this Court. In this regard, the order passed by this Court on 22.07.2025 which speaks for itself, is reproduced hereinunder:-

"Learned Senior Counsel for the petitioner submits that although notice has been served, the respondent-wife has not entered appearance.

2. However, having regard to the nature of the relief sought, we deem it appropriate that the respondent-wife be given an opportunity to appear before this Court before we take a final view in the matter.

3. Accordingly, learned Senior Counsel for the petitioner is permitted to serve *dasti* notice on the respondent-wife, enclosing a copy of this order, requesting the respondent-wife to make necessary arrangements to appear before this Court.

4. It is clarified that in the event the respondent-wife expresses her inability to appear due to financial and/or other constraints, she shall be informed that she is entitled to avail legal aid services through the concerned District Legal Services Authority, which shall co-ordinate with the Supreme Court Legal Services Committee for providing a counsel to represent her before this Court.

5. List on 09.09.2025."

6. Today, learned counsel for the appellant submitted that despite their endeavour to serve the respondent through *dasti* mode, she refused to accept such notice.

7. In the aforesaid background and taking note of the fact that respondent has withdrawn the criminal cases and no fresh case has been filed by her, is also an indication that she has no interest in pursuing the matter.

8. Under the aforesaid circumstances, when the respondent-wife after having resisted the challenge before the Trial Court, has thereafter, not chosen to contest is a sufficient proof that she is not interested in pursuing the issue of

divorce which leads to the next presumption that she is no more interested for restoration of relationship also. Pausing here, we would indicate that in our previous order dated 22.07.2025, we had also given indication to the respondent that she would be entitled to avail legal aid services through the concerned District Legal Services Authority, which shall co-ordinate with the Supreme Court Legal Services Committee for providing a counsel to represent her before this Court which has not been availed of.

9. Under the circumstances for giving a quietus to the present issue, we find that a case has been made out for invocation of our power under Article 142 of the Constitution of India for grant of decree of divorce on the ground of irretrievable breakdown of marriage. Accordingly, a decree of divorce is granted to the appellant-husband on the ground of irretrievable breakdown of marriage. Registry is directed to draw up a decree of divorce accordingly.

10. Before parting, we would indicate that if the respondent-wife feels that she is in need of some financial support by way of permanent alimony or otherwise, it will be open for her to approach this Court for the same. However, the same has to be done latest, within a period of six months from today. We once again reiterate that even for such proceedings, the respondent would be entitled for assistance from the Legal

Services Committee of this Court. For the said purpose, the District Legal Services Committee of the Civil Court, Badaun, Uttar Pradesh shall coordinate with the Legal Services Committee of this Court for her appearance before this Court.

11. Registry is directed to communicate this order to the respondent forthwith.

12. The appeal stands allowed in the aforementioned terms.

13. Pending application(s), if any, shall stand disposed of.

.....J.
[AHSANUDDIN AMANULLAH]

.....J.
[K. VINOD CHANDRAN]

NEW DELHI
09th SEPTEMBER, 2025

ITEM NO.39

COURT NO.12

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).10130/2025

[Arising out of impugned final judgment and order dated 03-09-2024 in FA No.715/2004 passed by the High Court of Judicature at Allahabad]

SARVESH KUMAR SHARMA

Petitioner(s)

VERSUS

SARVESH KUMARI SHARMA

Respondent(s)

Date : 09-09-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) Mr. Ranjan Mukherjee, AOR
Ms. Aayushi, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

2. The appeal stands allowed in terms of the signed order.
3. Pending application(s), if any, shall stand disposed of.

(SAPNA BISHT)
COURT MASTER (SH)

(ANJALI PANWAR)
COURT MASTER (NSH)

(Signed order is placed on the file)