

SPECIAL BENCH

Before V. Ramaswami, CJ, Ujagar Singh and G. R. Majithia, JJ.

MOHAN MASIH,—Petitioner.

*versus*

BASHIRO AND ANOTHER,—Respondents.

Matrimonial Reference No. 2 of 1985.

May 5, 1988.

*Divorce Act (IV of 1869)—S. 17—Ex parte decree for dissolution of marriage passed by District Judge—Matter before High Court for confirmation—High Court—Whether competent to dispense with service of notice to respondents who remained ex parte in the trial Court—Finding by the District Judge that respondent was living in adultery and that petition was not collusive—High Court—Whether can confirm the decree.*

*Held, that the matter should not be delayed any further as the respondent was ex parte in the Court below and there was no need for actually serving him again. Accordingly service of notice is dispensed with. In view of the finding of the Additional District Judge that the respondent was living in adultery and that there was no collusion between the husband and wife the decree of dissolution of marriage by divorce is confirmed.*

(Paras 1 and 2).

*Reference from the decree of the Court of the Additional District Judge, Gurdaspur dated the 22nd day of January, 1985 accepting the petition ex parte with costs and granting a decree Nisi in favour of Mohan Masih petitioner dissolving his marriage by a decree of divorce.*

*Nemo, for the Appellant.*

*Nemo, for the Respondents.*

JUDGMENT

V. Ramaswami, C.J. (Oral)

(1) Notices could not be served on the parties as it is reported that they are not living on the addresses given earlier in the petition. However, we do not think it necessary to delay this matter any further as the respondent was *ex parte* in the Court below and there

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was no need for actually serving the respondent again. Accordingly, the service of the notices is dispensed with.

(2) The finding of the learned Additional District Judge is that the respondent was living in adultery with one Kala Masih and that there was no collusion between the husband and wife. Accordingly, the decree of dissolution of marriage by divorce granted by the Additional District Judge is confirmed.

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R.N.R.

Before G. C. Mital, J.

SHARMA AND COMPANY,—Petitioner.

versus

UNION TERRITORY AND ANOTHER,—Respondents.

Civil Writ Petition No. 1820 of 1987.

July 19, 1988.

*Punjab Excise Act (I of 1914)—Ss. 31 and 32—Punjab Liquor Licence Rules, 1956—Rl. 37 (29, 30 and 31)—Payment of excise duty—Duty paid at prevailing rates—Subsequent enhancement of excise duty—Demand of enhanced duty on duty paid stock—Validity of such demand.*

*Held*, that once the excisable article is subjected to duty the item would lose the character of being subjected to a fresh or additional duty. Respondents were thus not justified in demanding the enhanced duty on the stock which remained unsold till the close of 31st March, 1986. The demand made is clearly illegal and beyond the authority of law.

(Paras 4 and 8).

*Petition under Articles 226/227 of the Constitution of India praying that:—*

- (a) *A writ in the nature of certiorari or any other writ, order or direction appropriate in the circumstances of the case quashing the impugned orders, contained in annexures P. 2 and P. 3, be issued;*