

IN THE COURT OF THE JUDGE, FAMILY COURT,  
BHUBANESWAR.

Present : Shri Pravakar Mishra, OSJS (SB),  
Judge, Family Court, Bhubaneswar.

Civil Proceeding No. 365 of 2013

Smt. Pranati Behera, aged about 28 years,  
W/o.- Sri Pravat Kumar Pradhan,  
D/o-Pitambar Behera,  
At Plot No. LIG-S-3/67,  
Chandrasekharpur, P.S.-Chandrasekharpur,  
Bhubaneswar-21, Dist-Khurda.

... Petitioner

... Versus...

Sri Pravat Kumar Pradhan,  
S/o. Biju Pradhan,  
Vill.-Kuhara, P.O.-Fategarh,  
Dist-Nayagarh.

... Respondent

Date of Argument : 08.01.2015

Date of Judgment: 22.01.2015

J U D G M E N T

This order arises out of a petition u/s. 13 1 (i-a) (i-b) of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of marriage of the petitioner with the respondent on the grounds of desertion and cruelty.

2. The facts of the case of the petitioner are as follows:-

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites in village temple of Kuhara on 10.04.2002. Thereafter they lead a happy conjugal life and out of their wedlock on male child namely Pratik was born in Capital Hospital, Bhubaneswar on 31.01.2004. It is the further case of the petitioner that after one or two months of the marriage, the

respondent and his family members started torturing her both physically and mentally due to additional demand of dowry and treated her as their maid servant and even did not provide proper food and medicines and nourishment during her pregnancy and forced to do all the household work. The respondent with the spell of liquor tortured her both physically and mentally. After 13 days of the birth of the son when she suffered Pneumonia and was treated in Capital Hospital, the respondent, instead of adding proper nourishment ill-treated her and her son for which she suffered severe mental depression. She has further stated that due to continuous torture to save herself as well as her son and to maintain themselves she joined in a restaurant at Jayadev Vihar and on each and every month, the respondent forcibly had taken away her salary and spent it by taking liquor. On 02.08.2007 the respondent had driven her out from his house along with her son for which she had taken shelter in her friend's house and did not intimate this fact to her parents as she married without their consent. On 25.01.2010 evening when she had gone to daily market for marketing, in the meantime the respondent arrived there and abused her in filthy languages in public. Finding no alternative she went to Mahila Police Station and the Mahila Police tried for a conciliation between them and induced her to leave her son with the respondent for some days which might change his attitude. Hoping for best, she left her son with respondent on the same day and after getting her son back, the respondent did not come to her. Several attempts have been to bring back her son but all were in vain. At last finding no other alternative, she intimate this fact to her parents and her father took her to her parental home on 26.07.2010. Several attempts have been made from her side to settle the dispute between them but all were in vain. Since the torture and cruelty by the respondent has become in-tolerable, she has filed this proceeding seeking a decree of divorce.

3. The respondent did not enter contest the petition and therefore, is set ex-parte.

4. The question that requires to be adjudicated is whether, there exists any desertion and cruelty on the part of the respondent to allow the petition for divorce?

5. The petitioner in order to prove her case she, herself, has been examined as P.W.1 who supported the averments made in the petition. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 13 1 (i-b) of the Act, 1955 provides that the other party has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition. The petitioner at paragraph-11 of her petition has stated that the respondent deserted her since 02.08.2007. The petition of divorce in this case is presented in the Court on 20.07.2013. Thus, it is clearly established that the petition has been filed after completion of two years from the date as alleged by the petitioner. From the aforesaid tenor of the evidence, it is as much as clear as noon day that there has been total liquidation of obligation of marriage between the parties since 02.08.2007, meaning thereby that intentional permanent forsaking and abandonment of one spouse by the other without the others consent and without reasonable cause also meaning not permitting or allowing or facilitating cohabitation between the spouses. The respondent without any rhyme or reason deserted the petitioner and subjected her to cruelty. This conduct of the parties is a continuous one for last several years. There is also blink chance of their reunion. Therefore, it is a fit case to snap out the marital relation between parties by passing a decree of divorce. In other words the petitioner could establish the ground of desertion.

6. The residue point that remains to be discussed is cruelty. Torturing the petitioner with the spell of liquor during her pregnancy stage, forcing to do all the household work, taking away the salary of petitioner and spending it by consuming alcohol and abusing the petitioner in filthy languages in market which spell cruel conduct of the respondent towards the petitioner. Therefore, the petitioner could successfully establish the ground of cruelty which is also

one of the ingredients U/s. 13 (1) (i-a) of the Act for granting a decree of divorce. Hence, it is ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. A decree of divorce is passed and the marriage between the petitioner and the respondent is hereby declared dissolved with effect from the date of decree.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 22<sup>nd</sup> day of January, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Pranati Behera

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.