

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

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

Civil Proceeding No. 497 of 2012

Annapurna Biswal, aged about 38 years,  
W/o Sri Narayan Biswal, Resident of At-Talanga( Paidkula)  
P.O- Gadabishnupur, P.S-Erasama  
Dist- Jagatsinghpur, At Present Plot No. 239,  
Siripur ( Upar Sahi) P.O- Delta, P.S- Khandagiri  
Bhubaneswar, Dist. Khurda.

... Petitioner

... Versus...

Sri Narayan Biswal, aged about 48 years,  
S/o Mayadhar Biwal, Resident of At- Talanga ( Paidakula)  
PO- Gadabishnupur, P.S- Erasama, Dist. Jagatsinghpur  
At present working as Jr. Clerk, Diary Section  
Bhubaneswar Municipal Corporation, Bhubaneswar.  
Dist. Khurda, P.S- Badagada, Bhubaneswar.

... Respondent

Date of Argument : 16.01.2015

Date of Judgment: 31.01.2015

J U D G M E N T

This order arises out of a petition u/s. 13 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 at Talanga ( Paidakula), Gadabishnupur, P.S. Erasama, Dist. Jagatsinghpur

on 10.06.1990. According to the petitioner at the time of marriage, her father had given gold ornaments and other household articles to the respondent. It is averred by the petitioner that the respondent was working as Jr.Clerk in the office of B.M.C the respondent subjected her physical and mental cruelty and he is a drunkard and due to his drink he misbehaved and used filthy language and beat regularly, threatened to the petitioner and also her three children. The respondent also visited to the office of the petitioner and abused her in filthy language in her office several times.

Further she mentioned in her petition that in the year 2012 the O.P threatened to kill the petitioner and her children for several times. The children are educated as such they did not tolerate the behavior of their father in the locality. Further she stated that on 28.1.2011 the respondent in a drunken stage quarreled with the petitioner without any rhyme of reason and so also attempted to douse with kerosene and after such incident the local gentlemen , the father of respondent and relatives tried to convince the respondent and his family members , but not change in his behavior and continued to inflict physical torture upon the petitioner and when the situation became unbearable lastly the petitioner came back to her parents house on 20.09.2011 These bundle of cause of actions obliged the petitioner to file the present proceeding seeking dissolution of marriage with the respondent by passing 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.

6. 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, 1954 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-8 of her petition has stated that due to continuous ill-treatment, physical cruelty by the O.P she came back to her parents house in the month of September,2011. The petition of divorce in this case is presented in the Court on 17.12.12. Thus, it is clearly established that the petition has been filed before completion of two years from the date as alleged by the petitioner. Therefore the ground of desertion must crumble to its ground.

7. The residue point that remains to be discussed is cruelty. From the evidence of P.w.1 it has been emanated that the respondent abused the petitioner at home as well as in presence of her office staff, assaulting her regularly under the influence of liquor, attempting to douse her with kerosene etc are some of the circumstances which are suggestive as well as indicative of the cruelty, perpetrated by the respondent on the petitioner, keeping in view of her education and social status and the aforesaid conduct of the respondent is justify to conclude that it is not possible for the petitioner to reside with the respondent and as such, a fit case to snap out the material relationship between the parties and hence, ordered.

#### ORDER

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 31st day of January, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1          Annapurna Biswal

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.