

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

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

Civil Proceeding No. 07 of 2014

Adyasa Priyadarsini Pradhan, aged about 21 years,
W/o- Pradipta Kumar Nayak,
At present:-C/o- Prahallad Pradhan,
Plot No. 544/12, Lingaraj Vihar,
P.O.-Pokhariput, P.S.-Airfield,
Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Pradipta Kumar Nayak, aged about 27 years,
S/o-Late Laxman Nayak,
At/P.O.-Gadakana, P.S.-Mancheswar,
Bhubaneswar, Dist-Khurda.

... Respondent

Date of Argument: 25.03.2015

Date of Judgment : 04.04.2015

J U D G M E N T

The petitioner Adyasa priyadarsini Pradhan has filed this Civil Proceeding U/s-25 of the Special Marriage Act, 1954(in short, the Act, 1954) to declare her marriage with the respondent Pradipta Kumar Nayak as null and void.

2. The case of the petitioner is, inter alia, that their marriage has been registered before Marriage Officer Khurda at Bhubaneswar on 19.01.2012 vide Marriage Certificate bearing No. 51/2012. According to the petitioner, after marriage, they have not resided together as husband and wife as such they have not consummate their marriage and their marriage was only for name shake. It is the further case of the petitioner that after marriage, she has been residing with her parents and the respondent has not taken her to his native village at Gadakana or his place of living in order to live as husband and wife and to consummate their marriage and on 25.12.2013 the

respondent refused to consummate their marriage. Therefore, she has prayed to declare their marriage as null and void and to cancel the marriage certificate vide Ext. 1.

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

4. From the aforesaid pleading of the petitioner, the only question that requires to be adjudicated is whether the marriage has been consummated or not?

5. The petitioner in order to prove her case she, herself has been examined as P.W. 1 and relied upon Ext. 1, the marriage certificate bearing No. 51/2012.

6. The evidence of P.W. 1 is facsimiles to the averments made in the petition which I do not like to geminate to avoid rigmarole of this case. Her statements have gone unchallenged as there has been no cross examination since the respondent has been set ex-parte. Law is well settled that when a statement of a witness gone unchallenged, the same must be accepted as true. Therefore, the statement of P.W. 1 is accepted as true. Admittedly, the marriage has not been consummated since the date of marriage and also on 25.12.2013 when the respondent refused to consummate their marriage. From the unchallenged evidence of the petitioner, it is clearly established that the respondent without any rhyme or reason willfully withdrew the cohabitation with the petitioner. The wife is the best person who is competent to say about the consummation of marriage. Non consummation of the marriage is one of the grounds U/s. 25 of the Act of the 1954 for annulment of the marriage. Hence, it is ordered;

ORDER

The petition filed by the petitioner succeeds. The marriage between the petitioner and the respondent dated 19.01.2012 vide Ext. 1 is hereby annulled. The Marriage Certificate vide Ext. 1 be cancelled after the expiry of the appeal period.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 4th day of April, 2015.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Adyasa Priyadarsini Pradhan

Witnesses examined for the respondent:

Nil

List of documents by petitioner:

Ext. 1 Marriage certificate bearing No. 51/2012

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.