

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

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

Civil Proceeding No. 124 of 2014

K. Raja Gopal, aged about 41 years,  
S/o-K. Raja Rao,  
Resident of Qrs. No. F-35/G,  
Rail Vihar, C.S. Pur, P.S.-C.S. Pur,  
Bhubaneswar-751023,  
Dist-Khurda.

... Petitioner

... Versus...

Smt. V. Vanita,  
W/o-K. Raja Gopal,  
D/o-Trinadha Rao,  
Float No. C-13, Dayal Tower,  
Chandini Chowk, Parsudih, P.S.-Parsudih,  
Jamshedpur, State-Jharkhand,  
PIN-831002.

... Respondent

Date of Argument: 04.04.2015

Date of Judgment : 20.04.2015

J U D G M E N T

The petitioner-husband, K. Raja Gopal has filed this application under Section 9 of the Hindu Marriage Act, 1955 (in short the Act, 1955) with prayer for restitution of his conjugal rights with the respondent-wife, Smt. M. Vanita.

2. The facts of the case of the petitioner are that he married to the respondent as per Hindu Custom and rites on 26.04.2012. After marriage, both of them resided together in his house at Qrs. No. F-35/G, Rail Vihar, Bhubaneswar and led a happy conjugal life for two months. According to the petitioner, as per the South Indian Telugu Custom, the respondent went to her parental home at Jamshedpur with him for residing in the month of Ashadha in their first marriage year and after leaving her at her parental home he returned on the same day. When the respondent did not come to

his house, he and his father along with his sister who was staying at Jamshedpur went to the house of the respondent on 17.08.2012 and requested her to come with them. But the father of the respondent and her brother brutally assaulted his father for which he sustained severely injury in his person and they also forcibly wanted to throw him outside of their balcony but he was rescued due to intervention of his family members. Thereafter he and his father returned to his house at Bhubaneswar after lodging an FIR before the local police station i.e. at Parsudih Police Station of Jamshedpur. In the month of January, 2013 the respondent came to his office and thereafter on 25.02.2013 she came to his house at Bhubaneswar along with her parents and brother and begged apologize for the incident of 17.08.2012 and made an amicable settlement in presence of some gentleman from both sides and she along with her parents and brother remained in his house till 07.03.2013 fore noon. In spite of his request the parents of the respondent took the respondent to Jamshedpur on 07.03.2013. On 16.03.2013 he went to the house of the respondent to bring her back for performing Puja near Vishakhapatnam and on 20.03.2013 he along with the respondent and her parents came to Bhubaneswar and after performing Puja at Vishakhapatnam the respondent along with her parents returned to Bhubaneswar on 25.03.2013. Again on 26.03.2013 the respondent along with her parents went to Jamshedpur in spite of his several requests and since then she has been residing in her parental home. Thereafter attempts have been made from his side but all were in vain. Finding no other alternative he sent a pleader notice to the respondent on 28.09.2013 vide Ext. 2. Despite of notice she did not join with him. Thereafter, he sent reminder vide Ext. 3 through his advocate but they refused to receive the said reminder. Finding no other alternative, he has filed this present proceeding for restitution of conjugal right.

3. The respondent did not contest the proceeding hence, she has been set ex-parte and ex-parte hearing has been taken up.

4. The following points are to be determined for adjudication of the case:

- (i) Whether the respondent is the legally married wife of the petitioner?
- (ii) Whether the respondent without any rhyme or reason deserted the petitioner and avoided for any conjugal relationship?
- (iii) Whether the petitioner is entitled for restitution of conjugal rights as claimed for?

5. The petitioner in order to prove his case he, himself has been examined as P.W.1 and relied on three documents. They are:- Ext. 1 is the Marriage Invitation Card, Ext. 2 is the Copy of the Pleader Notice and Ext. 3 is the reminder of the Pleader Notice. P.W.1 in his evidence has supported the averments made in his petition. P.W.1 has stated that his marriage with the respondent was solemnized on 26.04.2012. After marriage, they led a happy conjugal life for two months and thereafter from 26.03.2013 the respondent avoided to return to his company despite all his attempt to bring her back. From the above evidence of P.W.1, it is well established that, respondent is his legally married wife and after marriage they led their happy conjugal life for two months and thereafter, the respondent did not take any initiative for continuation of their marital relationship. Rather, on some pretext or other she avoided for any relationship with the petitioner. The respondent without any rhyme or reason neglected the petitioner and did not take any steps for consummation of their marriage. It is the respondent, who is the author of the entire matrimonial dispute. Therefore, the petitioner is entitled for restitution of conjugal rights as claimed for. Hence, ordered:

#### ORDER

The petition filed by the petitioner for restitution of conjugal rights is allowed ex-parte against the respondent. A decree of restitution of conjugal rights is hereby passed in favour of the petitioner. The respondent is hereby directed to join with the company of the petitioner in her matrimonial home within fifteen days from the date of this order. Any deviation to comply the order of the Court, the petitioner is at liberty to take further action through due process of law.

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Dictated, corrected by me and is pronounced on this the 20<sup>th</sup>  
day of April, 2015.

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Witnesses examined for the petitioner:

P.W.1        K. Raja Gopal

Witnesses examined for the respondent:

None

List of documents by petitioner:

Ext. 1        Marriage Invitation Card

Ext. 2        Copy of Pleader Notice

Ext. 3        Reminder of Pleader Notice

List of documents by respondent:

Nil

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