

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

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

Civil Proceeding No. 138 of 2014

Ashok Sahoo, aged about 37 years,
S/o-Murali Sahoo,
At-Shakti Vihar-II (Jayadev Vihar)
Near Hatiasuni, Nayapalli,
Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Smt. Jhunu Sahoo @ Nayak, aged about 29 years,
W/o-Ashok Sahoo,
D/o-Murali Nayak,
of VII. Matha Khokasa,
P.O.-Odiso, P.S.-Bhubana,
Dist-Dhenkanal.

... Opp. Party

Date of Argument: 12.03.2015

Date of Judgment : 26.03.2015

J U D G M E N T

The petitioner has filed this application under Section 10 (Sic) 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.

2. The facts of the case of the petitioner are that he married to the respondent as per Hindu rites and in the month of June, 2006 and out of their wedlock two sons were born. According to the petitioner, the respondent used to visit her parental home very often causing disturbance in his own family. The parents of the respondent wanted that he should stay in their house as domesticated son-in-law and when he refused to their proposal the respondent threatened him to file false dowry torture cases against him and his family members. On 12.02.2012 the respondent left his company along with their son when she was pregnant for the second time on the plea of nourishment of her mother. During her stay in her parental home he visited there and provided the bare necessities. During her

visiting there he noticed that the respondent and her family members started ignoring him. He has further averred that neither the respondent nor her family members agree to leave the respondent with him. Even after the birth of the second son she did not return to his company to perform her marital obligation. In the month of July, 2012 when he was admitted in S.C.B. Medical College, Cuttack and had undergone treatment till 17.07.2012 she did not come to see him and also in the March, 2013 when he met an accident and bed ridden for about a month the respondent did not come to see him. It is further averred that when he was deprived of love affection from his wife and sons, the respondent instead of coming back to his company filed a petition before the District Legal Aid, Dhenkana, with some false allegations against him and he appeared there. Several attempts have been made from his side to bring her back but all were in vain and hence, 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. 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 in the month of June, 2006 and out of their wedlock two sons were born. After marriage, they led a happy conjugal life for some days and thereafter the respondent and her parents insisted him to live in their house as domestic son-in-law and when he refused the same the respondent went to her parental home on the plea of her mother's illness and thereafter she did not return despite all his attempt to bring her back with the children. 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 some 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:

O R D E R

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 26th day of March, 2015.

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Witnesses examined for the petitioner:

P.W.1 Ashok Sahoo

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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