

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

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

Civil Proceeding No. 164 of 2014

Subhasmita Chinara, aged about 25 years,
D/o- Muralidhar Chinara,
W/o-Amar Prasad Barik,
resident of At/P.O.-Sarakantara,
P.S.-Khandagiri, Bhubaneswar,
Dist-Khurda, Odisha.

... Petitioner

... Versus...

Amar Prasad Barik, aged about 29 years,
S/o-Ani Barik,
Permanent resident of At-Nuasahi,
P.O./P.S.-Nayapalli, Bhubaneswar,
Dist-Khurda, Odisha.
At present:-C/o-Sk. Yasin,
At/P.O.-Jadupur, P.S.-Khandagiri,
Bhubaneswar, Dist-Khurda, Odisha.

... Respondent

Date of Argument : 18.12.2014

Date of Judgment: 27.12.2014

J U D G M E N T

The petitioner has filed this Civil Proceeding U/s-24 of the Special Marriage Act, 1954(in short, the Act, 1954) praying to declare the marriage as null and void and to cancel the marriage certificate bearing No. 183/2014 dated 19.02.2014.

2. The case of the petitioner Subhasmita Chinara is, inter alia, that their marriage has been registered before Marriage Officer Khurda at Bhubaneswar on 19.02. 2014 vide Marriage Certificate bearing No. 183/2014. According to the petitioner, prior to the marriage they were known to each other and their marriage was the outcome of love affairs. It is further averred by the petitioner

that the respondent concealing his first marriage with one Rashmita Barik, D/o-Nrusingha Patra or Khandagiribari, Bhubaneswar in the month of June, 2007 through whom he was blessed with a daughter namely Supriya Pridarsoni Barik developed love with her. It is further averred that the respondent belongs to separate caste for which her family members did not agree for the marriage. When the petitioner came to know about the first marriage of the respondent, she was astonished. Therefore, their marriage has not been consummated. The respondent also threatened her with dire consequence. Therefore she has filed this proceeding seeking to declare the marriage as null and void and to cancel the marriage certificate.

3. The respondent in his written statement has admitted about their marriage before the Marriage Officer, Khurda, Bhubaneswar and he has admitted the averments made by the petitioner but has denied the allegations made by the petitioner against him. He further admitted that their marriage has not been consummated and since the date of marriage, they both have been residing separately. Further, he has averred that, he married to Rashmita Barik and he has filed a petition U/s. 9 of Hindu Marriage Act for restitution of conjugal rights with her and said Rashmita Barik has filed a criminal proceeding against him for torture and dowry demand. He has further averred that he has no objection, if the marriage registration certificate be declared as void.

4. From the aforesaid evidence of the parties, the question that requires to be adjudicated is (1) Whether the respondent has the knowledge that he has married to Rashmita Barik prior to the registration of marriage with the petitioner? (2) Whether the alleged marriage was performed with the consent of the parties? (3) Whether the marriage certificate is nullity and the petitioner is entitled for a decree of nullity?

5. The petitioner in order to prove her case she, herself has been examined as P.W. 1. She has also relied upon Ext. 1, the marriage certificate bearing No. 183 dated 19.02.2014. The respondent in order to negate the claim of the petitioner he, himself has been examined as R.W.1.

6. The evidence of P.W. 1 is facsimile to the averments made in the petition which I do not like to geminate to avoid rigmarole of this order. Her

evidence has been acquiesced by R.W. 1. R.W. 1 in his evidence has admitted that he has married to one Rashmita Barik prior to the registration of the marriage with the petitioner. Therefore, it is clearly established that he has a spouse living at the time of his marriage with the petitioner. At the time of registration, the respondent suppressed the above fact before the marriage officer and also before the petitioner. Therefore, there has been infraction of one of the conditions specified in clause (a) of Section 4 attracting Section 24 (i) of the Act, 1954 to declare the marriage void and hence, ordered;

O R D E R

The petition filed by the petitioner succeeds. The marriage between the petitioner and the respondent dated 19.02.2014 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 27th day of December, 2014.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Subhasmita Chinara

Witnesses examined for the respondent:

R.W. 1 Amar Prasad Barik

List of documents by petitioner:

Ext. 1 Certified copy of the marriage certificate bearing No. 183 dated
19.02.2014.

List of documents by respondent:

Nil

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BHUBANESWAR.