

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

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

Civil Proceeding No. 198 of 2013

Sri Ganesh Chandra Nayak, aged about 30 years,
S/o- Late Siba Nayak,
Vill/P.O.-Darada,
P.S.-Balipatna, Dist-Khurda.
At present residing at Qr No. 2-R No. 8,
Veterinary College Campus,
OUAT-Siripur, Bhubaneswar,
P.S.-Khandagiri, Dist-Khurda

... Petitioner

... Versus...

Smt. Kabita Gochhayat, aged about 26 years,
W/o- Ganesh Chandra Nayak,
Vill/P.O.-Darada, P.S.-Balipatna,
Dist-Khurda,
At present C/o-Laxmidhar Cochhayat,
Eastern Spinning Mill,
At-Piragacha, P.O.-Kadamgachi, P.S.-Barsat,
Dist-North 24 Pargana, (West Bengal).

... Respondent

Date of argument : 06.09.2014

Date of order : 24.09.2014

ORDER

The petitioner has files this application Under Sec.9 of Hindu Marriage Act with prayer for restitution of her conjugal rights.

2. The case of the petitioner is that he married to the respondent as per Hindu rites and customs in the house of the respondent on 22.06.2008 and out of their wedlock one male child namely Nitinraj Nayak was born on 03.04.2011. After some days they were residing in the quarter allotted to him at 2-R, Unit-8, Veterinary College Campus in OUAT, Siripur,

Bhubaneswar along with her mother. He has averred that the respondent always insisted him to reside separately from her mother for which his mother called the relatives and parents of the respondent who gave advice to lead happy conjugal life. He has averred that the respondent is homesick and always persuaded him to visit her parents house in each week who are residing at Kolkata. Since the petitioner has failed to fulfill her demand, she became arrogant and started quarreling with him on silly matters. He has averred that he tried his best and expressed his financial difficulties before the respondent but the respondent did not listen and repeated her claim and denied for cohabitation with him. Several attempts have been made to settle the dispute but were in vain. According to the petitioner the respondent has left his company with her parents since 15.08.2010 along with her son Nitinraj Nayak and stayed in her parents house. Since then they have no physical relationship. Since the respondent without any rhyme or reason deserted the petitioner, 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 on 22.06.2008 according to Hindu rites and customs and out their wedlock one male child namely Nitinraj Nayak was born on 03.04.2010. After marriage, they led a conjugal life for some days at his quarter and after that the respondent tortured him both mentally and physically and debarred the

petitioner from any conjugal relationship. He has stated that the respondent without any rhyme or reason left the matrimonial home since 15.08.2010 and despite attempts from his side, the respondent did not resume her conjugal relationship with him for which, the petitioner is facing trouble in absence of the respondent. 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:

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 24th day of September, 2014.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Sri Ganesh Chandra Nayak

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.