

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

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

Civil Proceeding No. 214 of 2014

(Under Section 13 (B) of Hindu Marriage Act, 1955)

Dhirendra Behera, aged about 44 years,  
S/o- Daitari Behera,  
Permanent resident of At-Dangulu,  
P.O.-Keredi, Via-Gumagarh, P.S.-Sadar,  
Dist-Phulbani, Odisha  
At present residing at Qtr. No. 1/A-18, J.M. Colony,  
Budharaj, Sambalpur, Pin-768004, Odisha.

..... Petitioner No. 1

AND

Jyotismita Parida, aged about 29 years,  
W/o-Dhirendra Behera,  
D/o-Trinath Parida,  
Permanent resident of Plot No. 1031/2589,  
Jagamohan Nagar, Jagamara, P.O./P.S.-Khandagiri,  
Bhubaneswar-751030,  
Dist-Khurda.

..... Petitioner No. 2

Date of argument : 27.12.2014

Date of judgment : 27.12.2014

J U D G M E N T

The petitioners have filed this application Under Section 13(B) of the Hindu Marriage Act, 1955 for divorce by mutual consent.

2. The facts of the case of the petitioners are that their marriage was solemnized as per Hindu customs and tradition at Dangulu in the district of Phulbani on 04.05.2003 and out of their wedlock one son namely Ansuman Behera and one female child namely Dimple Jyoti

Behera were born at Sambalpur on 11.03.2004 and 22.02.2011 respectively. Due to differences arose between them which could not be resolved they started living separately since 01.05.2013. The petition was presented before this Court on 17.06.2014. Therefore, they have been living separately more than one year. The petition was filed more than six months back i.e. on 17.06.2014. It is further averred that several attempts have been made by the family members, friends and well wishers for their reunion but in vain. It is mutually agreed between the parties, that the son namely Ansuman Behera will presently stay with his father-petitioner No.1 and whenever her mother-petitioner No.2 desires to keep the son with her permanently, she can do so and the petitioner No.1 shall no objection for the same. Further the second child, the girl namely Dimple Jyoti Behera will stay with her mother-petitioner No.2. The parties will be the custodian of the children and they have visiting right to meet their children as and when is required to do so and either party will not create any hindrance and shall smoothly make it possible to see their children and can spend time with them. It is also decided that though both the petitioners will be the custodian of the children yet in case of their future the petitioner No.2-wife will take the decision which shall be final and shall keep both the children with her forever. In the above mentioned event, neither the petitioner No.1 nor any person of his family members will raise any question and shall cooperate with the petitioner No.2 for the smooth sailing of the matter and shall not approached before any court of law for the custody of the children and shall not raise any objection regarding the sole custody of the children by the petitioner No.2. According to them, their consent has not been obtained by exercising fear, force, fraud, coercion or undue influence.

3. Both the petitioners were examined on oath as P.Ws. 1 and 2 respectively. They have stated unanimously that their marriage was solemnized on 04.05.2003 according to Hindu rites. Due to indelible temperament, and mental incompatibility and difference of opinion they

have been living separately since 01.05.2013. Although their friends and relatives tried their best to reunite them yet reconciliation was not possible. A chance of reunion was remote and having no other alternative both of them decided to dissolve the marriage by mutual consent.

4. Petitioner No. 2 stated that she has she has no claim of any alimony for past, present and future for herself. In view of above admission by the petitioner No. 2, she is not entitled to get any further alimony from petitioner No.1. The petition has been filed more than six months back i.e. on 17.06.2014. Further she has stated that she has no objection if their son namely Ansuman Behera will presently reside with petitioner No.1 and further the second child, the girl namely Dimple Jyoti Behera will reside with her. Both of them stated on oath that they have been living separately since 01.05.2013 and they are not able to live together and they have mutually agreed that their marriage should be dissolved. The Court should not stand as a bar to their future life. The petition of the petitioners succeeds. Hence, it is ordered;

#### ORDER

The petition for divorce by mutual consent is allowed. The decree of divorce by mutual consent is hereby passed and the marriage between petitioner No. 1 and petitioner No. 2 is declared dissolved with effect from the date of decree and the son namely Ansuman Behera will reside with the petitioner No.1 and the daughter namely Dimple Jyoti Behera will reside with petitioner No.2.

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Dictated, corrected by me and is pronounced on this the 27<sup>th</sup> day of December, 2014.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioners:

P.W.1        Dhirendra Behera

P.W.2        Jyotismita Parida

List of documents admitted by petitioners:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.