

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

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

Civil Proceeding No. 251 of 2013

Surendra Muduli @ Jatia, aged about 30 years,  
S/o- Chaturbhuj Muduli,  
Vill.-Mahadebabasta, P.S.-Niali, Dist-Cuttack.  
At present-Haladipadia Basti, Cuttack Road,  
P.S.-Laxmisagar, Dist-Khurda.

... Petitioner

... Versus...

Nirupama Muduli @ Arati, aged about 27 years,  
W/o- Surendra Muduli,  
D/o-Late Madhaba Muduli,  
Vill.-Suninda, P.O.-Mahadebabasta,  
P.S.-Niali, Dist-Cuttack,  
At present-Jalalpur, Balikuda,  
P.S.-Niali, Dist-Cuttack.

... Respondent

Date of argument : 10.12.2014

Date of order : 17.12.2014

ORDER

The petitioner has files this application Under Sec.9 of Hindu Marriage Act 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 customs in the house of the respondent on 26.06.2011 and out of their wedlock one male child was born. According to the petitioner, after marriage, the respondent disrespected him and his family members. The respondent also was not obeying the advice of elders and acted according her own sweet will and when he and his family members tried to convince her to amend in her behavior, the respondent did not listen their advice. He has further averred that after one month of marriage, when both of

them went to the parental home of the respondent, he disclosed the overt act and misbehaviour of the respondent towards him and his family members before her mother and her mother also advised her to change her behaviour and to show respect to the elders otherwise their image will be lowered down in the society and after return to his house, there is no change of the character of the respondent rather repeated the previous behaviour. The neighbours were also dissatisfied with the behaviour of the respondent. The respondent did not change in her behaviour even after her pregnancy. It is further averred by the petitioner that when she was carrying six months, he took him to Bhubaneswar and stayed in Haladiapadia Basti under Laxmisagar Police Station with a hope to lead a happy conjugal life but there, the respondent became more furious and even assaulted him regularly within a week of stay there, for which he informed her mother. On 02.08.2012 the mother of the respondent came and took her to her house on the plea to attend a function of her relation and again come back within a week but she did not return. It is further averred by the petitioner that on 11.05.2013 he and his mother went to the house of the respondent to bring her back but the respondent and her mother did not allow them to enter into the house and also threatened them not to come to Jalalpur again otherwise they will face dire consequence, for which, he informed this matter to Niali Police Station but police did not take any action. Several attempts have been made from his side for their reunion but all were in vain. Since 02.08.2012 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 26.06.2011 and out of their wedlock one male child was born. After marriage, they led a conjugal life for some days and the respondent during her stay in his house misbehaved him and his family members. He has stated that the respondent left his house with her mother on the plea to attend a function of her relation on 02.08.2012 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:

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 with her minor son 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 17<sup>th</sup> day of December, 2014.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Surendra Muduli @ Jatia

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.