

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

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

Civil Proceeding No. 264 of 2013

Itishree Behera, aged about 20 years,
Wo- Shri Saurabh Kumar Srivastava
D/o-Shri Mayadhara Behera
Resident at-Madhusasan, P.O.-Godhiganga,
P.S.-Patkura,
Dist-Kendrapara
At present residing at-Delta "A" Colony,
Type-II-36, P.S.-Khandagiri, Unit-8,
Bhubaneswar, Dist-Khurda

... Petitioner

... Versus...

Saurabh Kumar Srivastava, aged about 26 years,
S/o-Nirankar Lal Srivastava,
In front of B Academy Playground,
Guddopur, P.S.-Khujanpur,
Uttarpradesh-224001,
Dist-Faizabad,
At present residing at-Plot No. 610,
Jagamara, P.S.-Khadagiri, Bhubaneswar,
Dist.-Khurda

... Respondent

Date of Argument : 04.09.2014

Date of Judgment: 19.09.2014

J U D G M E N T

The petitioner has filed this Civil Proceeding U/s-25(iii) of the Special Marriage Act, 1954(in short, the Act, 1954) to declare her marriage with the respondent Saurabh Kumar Srivastava as a nullity.

2. The case of the petitioner Itishree Behera is, inter alia, that while she was prosecuting her 1st year of Bachelor Degree in Arts in City Women's

College, Siripur in Bhubaneswar, she met the respondent for the first time while the respondent was under training in Quantum Aerospace & Technologies Ltd. and from the 1st meet they both came in contact with each other and they fell in love and subsequently devolved intimacy with each other. Subsequently by misguided by some of their friends, distant relations both of them got registered their marriage before Marriage Officer Khurda at Bhubaneswar on 11.08.2011 and after marriage they have not consummated their marriage as both of them lived separately. After some days the respondent went to Mohali, Chandigarh, Punjab and worked there and did not meet each other due to their respective busy schedule but were in talking terms and very good friends with each other. She has further averred that her parents were not aware of such marriage. She has further averred that she has no marital relationship with the respondent and never cohabited with him. She has further stated that the respondent has committed fraud for getting marriage certificate. Therefore, she has prayed to declare their marriage as nullity.

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 allegation made by the petitioner against him. He has averred that their marriage was performed hurriedly with connivance of the friends and distance relations. He further admitted that their marriage has not been consummated as he is staying at Mohali, Punjab and since the date of marriage, they both have residing separately. Further, he has 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 alleged marriage was performed with the consent of the parties ?

(2) 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. 612 dated 11.08.2011. The respondent in order to negate the claim of the petitioner he, himself has been examined as R.W.1.

6. The nullity of the marriage is sought on the ground that the consent of the petitioner to the marriage was obtained by coercion or fraud. The evidence of P.W. 1 is that after her first meeting with the respondent they developed intimacy which culminated in marriage between the two under Special Marriage Act, with help of some friends and distant relatives. Therefore, under no stretch of imagination it could be believed that the consent of the petitioner to the marriage was obtained by coercion or fraud. Therefore, nullity of the marriage on this ground dissipated.

7. The nullity of the marriage does not rest there. The evidence of P.W. 1 otherwise makes a ground for nullity of the marriage on the ground of non consummation of marriage. P.W. 1 has stated that the marriage was not consummated R.W. 1 also admitted the said fact. Therefore, since the marriage has not been consummated due to willful refusal of the either parties and the marriage being a nake-sake, petitioner is entitled to annulment of marriage by a decree of nullity. Hence, ordered;

ORDER

The petition filed by the petitioner succeeds. The marriage between the petitioner and the respondent dated 11.08.2011 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 19th day of September, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Itishree Behera

Witnesses examined for the respondent:

R.W. 1 Saurabh Kumar Srivstava

List of documents by petitioner:

Ext. 1 Certified copy of the marriage certificate.

List of documents by respondent:

Nil

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