

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

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

Civil Proceeding No. 271 of 2012

Ananta Kishore Das,  
S/o- Laxmikanta Das,  
At-Sadanandapur, P.O.-Kubera, Dist-Bhadrak,  
At present-Rasulgarh Postal Staff Quarters,  
G.G.P. Colony, P.S.-Mancheswar,  
Bhubaneswar, Dist-Khurda

... Petitioner

... Versus...

Sumitra Behera,  
D/o- Rabi Behera,  
W/o-Ananta Kishore Das,  
At-Aitalanga, P.O.-Athantar,  
P.S.-Balianta, Dist-Khurda,  
At present-C/o- Rabi Behera,  
P.W.D. Staff Quarter Colony,  
In front of F.C.I. Store, P.S.-Kharavelnagar,  
Bhubaneswar, Dist-Khurda

... Respondent

Date of argument : 21.08.2014

Date of order : 04.09.2014

ORDER

This order arises out of a petition u/s. 27 of the Special Marriage Act, 1954 (in short, the Act 1954) praying for a decree of dissolution of marriage of the petitioner with the respondent on the ground of desertion and cruelty.

2. The facts of the case are as follows:-

The marriage of the petitioner with respondent was solemnized before the Marriage Officer, Khurda at Bhubaneswar vide Marriage Certificate No.6 of 2005 and out of their wedlock one female child was born. After marriage, they led a happy conjugal life at Bangalore at the service place of the petitioner and after some days, difference of opinion gradually increased. Petitioner has averred that the respondent was adamant and is not listening the words of the petitioner, consequence of which, the petitioner left Bangalore leaving his job. It is averred inter alia that while the respondent was with him at Bhubaneswar, on 21.4.2012 she left her in-laws house with her mother and since then the respondent is residing with her father leaving her daughter with the petitioner. It is further averred by the petitioner that on 07.05.2012 his father-in-law informed him over telephone about the missing of the respondent and on getting such information, the petitioner and his parents-in-law searched many places but could not trace her for which after six to seven days of her missing, the petitioner has lodged a written report on 14.05.2012 before Kharavelnagar P.S. He has further averred that some days after her missing, he came to know that the respondent had left Bhubaneswar and has been staying at Bangalore with one of her colleague of her company where she worked. He has further averred that he went to Bangalore for searching of the respondent but unfortunately could not get any information regarding her missing and returned to Bhubaneswar for which he suffered mental agony. He has averred that he is leading a very painful and miserable life in the society and her daughter who is aged about 6 years old is also suffering immense hardship and deprived of affection from her mother who deserted herself intentionally leaving both husband and her daughter. He has further averred that the respondent without rhyme or reason deserted him since 21.04.2012. Since the torture and cruelty by the respondent has become in-tolerable she has filed this proceeding seeking a decree of divorce.

3. The respondent did not enter contest the petition and therefore, is set ex-parte.

4. The question that requires to be adjudicated is whether, there exists any desertion and cruelty on the part of the respondent to allow the petition for divorce?

5. The petitioner in order to prove his case he, himself, has been examined P.W. 1.

6. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 27 (i) (b) of the Act, 1954 provides that the other party has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition. The petitioner at paragraph-6 of his petition has stated that the respondent deserted her since 21.04.2012. The petition for divorce in this case is presented in the Court on 24.07.2012. Thus, it is clearly established that the petition has been filed before completion of two years from the date as alleged by the petitioner. Thus, the ground of desertion held not established.

7. The residue point that remains to be discussed is cruelty. P.W.1 has stated that the respondent without any rhyme or reason left the matrimonial house since 21.04.2012 leaving her minor daughter with the petitioner. Thereafter, he received a telephonic message from the parents of the respondent that she was missing for which he has lodged an FIR, about such missing at Kharavelanagar Police Station. He has further stated that after some days of his searching, he noticed that the respondent went to Bangalore and was staying with a colleague of her company where she worked. The petitioner has further stated that during her stay with him, she was misbehaving the petitioner and did not take any proper care of the minor child for which, the petitioner is suffering mental agony. From the above evidence of the petitioner, it is clearly established that respondent is leaving her matrimonial house leaving her daughter intentionally and the respondent without knowledge of the petitioner and her parents left her parental home and residing at Bangalore with one of her colleague for which the petitioner suffered mental agony and his daughter also deprived of affection from her mother amounts to cruelty. The evidence of the petitioner remains

unchallenged. Therefore, there is no reason to disbelieve the unchallenged evidence of the petitioner. Thus, the petitioner could successfully establish the ground of cruelty which is also one of the ingredients u/s. 27 (d) of the Act for granting a decree of divorce. Hence, it is ordered;

O R D E R

The petition of the petitioner is allowed ex-parte without cost. A decree of divorce is passed in favour of the petitioner and the marriage between the petitioner and the respondent is hereby declared dissolved with effect from the date of decree.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 4<sup>th</sup> day of September, 2014.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Ananta Kishore Das

Witnesses examined for the respondent:

Nil

List of documents by petitioner:

List of documents by respondent:

Nil.

JUDGE, FAMILY COURT,  
BHUBANESWAR.