

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

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

Civil Proceeding No. 299 of 2012

Ratnamala Swain, aged about 46 years,
W/o-Akshaya Kumar Swain,
D/o-Late Ramachandra Swain,
Dream Villa, Flat No. 202, VIP-12,
Nayapalli, Bhubaneswar-15,
Dist-Khurda.

... Petitioner

... Versus...

Akshaya Kumar Swain, aged about 48 years,
S/o-Late Bairangi Charan Swain,
Vill-Kunjipatna, P.O.-Nuapalamhat,
Dist-Cuttack.

... Respondent

Date of Argument : 02.12.2014

Date of Judgment : 17.12.2014

J U D G M E N T

This order arises out of a petition u/s. 13 (1) (i-a) of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of marriage of the petitioner with the respondent on the ground of cruelty.

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

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites in Arya Samaja, Saheed Nagar, Bhubaneswar on 14.07.1991 and out of their wedlock one son namely Smitha Sekhar Swain and one daughter namely Anisha Swain were born on 13.10.1992 and 04.03.1997 respectively. According to the petitioner she is an Architecture by

profession and the respondent is a contractor. She has further averred that the respondent always borrowed money from her and whenever she was not unable to accede to the financial request of the petitioner, she was misbehaved and emotionally tortured by the respondent. The respondent without any information to her remained outside from the hose and when she asked for the reason to him, she was tortured by the respondent both physically and mentally. He was always keeping extramarital relationship with many women and once he brought a woman from Kolkota and introduced her. Since 2009 they have no physical relation with each other. That apart the respondent is habitual prone to change his relationship from one woman to other and for this created differences and disputes between them. Several attempts have been made from her side for their reunion but all were in vain. Since the torture and cruelty by the respondent became in-tolerable the petitioner has filed this proceeding seeking a decree of divorce on the ground of cruelty.

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 cruelty on the part of the respondent to allow the petition for divorce?

5. The petitioner in order to prove her case she, herself, has been examined P.W. 1.

6. The petitioner sought divorce on the ground of respondent's cruelty. She has deposed about the maltreatment of the respondent towards her. Her statement is facsimile to the allegation made in petition which have gone unchallenged as there has been no cross examination since the respondent has been set ex-parte. Law is well settled that when a statement of a witness gone unchallenged, the same must be accepted as true. Therefore, the statement of P.W. 1 is accepted as true. Since it has been the duty of the petitioner to establish the ground i.e. cruelty set out in the petition seeking divorce against the respondent, the evidence of P.W. 1 is examined in ferreted eyes and on such examination I am satisfied that the petitioner could able to

establish the same. Keeping extramarital relation with many women and extracting money on different pleas and desexualization to the petitioner since 2009 which are emerged out from the evidence P.W. 1 are circumstances of the cruelty and therefore, the petition of the petitioner deserves merit to be allowed. Hence, it is ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. A decree of divorce is passed 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 17th day of December, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Ratnamala Swain

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.