

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

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

Civil Proceeding No. 327 of 2013

Sri Parsuram Ojha, aged about 42 years,
S/o- Surendra Ojha,
of Village-Oskana, P.O.-Angeswarpada,
P.S.-Nuagaon, Dist-Jagatsinghpur,
At present-Bhimpurbasti near Aerodrome area,
P.S.-Capital, Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Mamata Maharana @ Ojha, aged about 34 years,
W/o-Parsuram Ojha,
D/o-Late Nilamani Moharana,
At-Badagada, (Majhisahi) near Dalamandap,
P.O./P.S.-Badagada, Bhubaneswar,
Dist-Khurda.

... Respondent

Date of argument : 27.08.2014

Date of order : 09.09.2014

ORDER

The petitioner has files this application Under Sec.9 of Hindu Marriage Act with prayer for restitution of her conjugal rights.

2. The case of the petitioner is that he married to the respondent as per Hindu rites and customs at the residence of respondent on 23.01.2010 and out of their wedlock one daughter and one son were born, who are now aged about 12 years and 10 years respectively. He has averred that he is a carpenter by profession and managing his family from that source and the respondent always wanted to keep the entire income for her own purpose. According to him the respondent is a very adamant and egoistic lady and from the very beginning of the marriage the respondent did not cooperate to the

petitioner and his family members and also did not do any household work and under estimated and misbehaved him as well as his family members. He has averred that the respondent was also abusing and quarreling with the petitioner and other family members on silly matters during her stay in her matrimonial home and also showed her unwillingness to stay in his house. He has further averred that the respondent always instigated him to reside separately from his parents and other family members and when he refused, the respondent became more aggressive and created disturbances for which he suffered from mental and emotional torture. It is further averred by the petitioner that respondent has not accepted him as her husband and has not given any regards to him and the behavior and attitude of the respondent is very rough and vulgar. He has further averred that the parents of the respondent also instigated the respondent to grab the money and property of the petitioner and the respondent also given the money to her parents. Apart from that the parents of the respondent also instigating the respondent to lodge a false dowry torture and criminal case against the petitioner and his family members. He has also averred that the parents of the petitioner have also threatened him to kill by engaging criminals unless the petitioner shall not give them a huge amount of money and shall not record the only residential property in the name of the respondent. According to the petitioner the respondent has left his company since 2006 and since then they have no physical relationship. It is further averred that several attempts have been made for settlement of dispute, but the respondent and his family members did not cooperate rather threatened him to lodge a false dowry torture case against him. Since the respondent without any rhyme and reason deserted the petitioner, she 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 23.01.2000 according to Hindu rites and customs and out their wedlock one female child and one male child were born. After marriage, they led a conjugal life for some period and after that the respondent tortured him both mentally and physically and debarred the petitioner from any conjugal relationship. He has stated that the respondent without any rhyme or reason left the matrimonial home since the year 2006 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 forthcoming that, respondent is his legally married wife and after marriage they led their happy conjugal life for some years and thereafter, the respondent did not take any initiative for continuation of their marital relationship. Rather, on some pretext on 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. The above evidence of the petitioner remains unchallenged. Therefore, there is no reason to disbelieve his testimony. 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 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 9th day of September, 2014.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Sri Parsuram Ojha

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.