

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

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

Civil Proceeding No. 348 of 2012

Puspalata Bhol, aged about 34 years,  
W/o- Dipti Ranjan Behera,  
Vill.-Jamujhari, P.O.-Chhatabar,  
P.S.-Chandaka, Dist-Khurda,  
At present:-D/o-Prabodha Bhol,  
Vill.-Kujimahal, P.S.-Chandaka,  
Dist-Khurda.

... Petitioner

... Versus...

Dipti Ranjan Behera,  
S/o-Late Rankanidhi Behera,  
Vill.-Jamujhari, P.O.-Chhatabar,  
P.S.-Chandaka, Dist-Khurda.

... Respondent

Date of Argument : 17.10.2014

Date of Judgment: 30.10.2014

J U D G M E N T

This order arises out of a petition u/s. 13 of the Hindu Marriage Act, 1956 (in short, the Act 1956) praying for a decree of dissolution of marriage of the petitioner with the respondent on the grounds of desertion and cruelty.

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

The marriage of the petitioner with respondent was solemnized as per Hindu custom and rites on 09.03.2008 and after marriage, they led a happy conjugal life in the house of the respondent for about one month. According to the petitioner, her father had given cash of Rs. 80,000/-, gold ornaments weighing 80 grams and other household articles to the respondent as per their

demand. The marriage was a serendipity. The der-Tag started in their life after one month of their marriage when the respondent and his mother demanded more dowry of Rs. 10,000/- and when she refused for the same she was subjected to torture both physically and mentally by the respondent and his mother. In the night of 15.05.2008 at about 10.30 P.M., the respondent assaulted her brutally by means of a bamboo stick for which she became senseless and at that time the family members of the respondent were planning to take her away to the jungle and to pour kerosene and acid on her and to kill her and due to intervention of neighbours she was rescued and they started her treatment and intimated her father. Thereafter, in the same night, her father and other villagers went to village Jamujhari and rescued her and treated her in his house and since then she has been residing with her parents. She has further averred that several attempts have been made for settlement of the dispute but in vain due to adamant nature of the respondent. She has further averred that the respondent has landed property from which he is earning handsome amount. Apart from that he has a big goat farm consisting of 200 numbers of goats and 7 numbers of cows and out of the said business, the respondent is getting Rs. 30,000/- per month. Since the date of desertion the respondent has not been providing any farthing to her and she is unable to maintain herself. Since the torture and cruelty by the respondent became un-tolerable he has filed this proceeding seeking a decree of divorce.

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

4. The question that requires to be adjudicated are :-

(i) Whether, there exists any desertion and cruelty on the part of the respondent to allow the petition for divorce and secondly in case the divorce is allowed what would be the quantum of maintenance of permanent alimony?

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

6. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 13(1) (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-5 of her petition has stated that the respondent deserted her since 15.05.2008. The petition for divorce in this case is presented in the Court on 30.08.2012. Thus, it is clearly established that the petition has been filed after completion of two years from the date as alleged by the petitioner. It is stated by the petitioner that she was subjected to torture due to non-fulfillment of additional demand of dowry of Rs. 10,000/-. The petitioner has further stated that in the night of 15.05.2008, at about 10 P.M. the respondent had assaulted her brutally and attempted to douse her with kerosene but she was rescued by the neighbours and thereafter her father had brought her to his house and since then she has been residing with her parents. The conduct of the respondent was to reprehensible it is incomprehensible for the wife-petitioner to live with the respondent. Apart from that since, the date of desertion of the petitioner, the respondent has not taken any attempt for reunion. Thus, the marriage is dead both practically and emotionally. Therefore, from the aforesaid unchallenged testimony of P.W. 1, it is clearly established that the petitioner has sufficient case to live separately from the respondent for his cruel conduct and hence, the essential of desertion and cruelty are well established entitling the petitioner to get a decree of divorce

7. As regards to permanent alimony, petitioner in her affidavit evidence has categorically stated that the respondent has landed property from which he is earning handsome amount. Apart from that he has a big goat firm consisting of 200 numbers of goats and 7 numbers of cows and out of the said business, the respondent is getting Rs. 30,000/- per month. The above evidence of the petitioner has gone unchallenged. Therefore, the evidence of petitioner is

believable and trustworthy. Thus, the respondent has got sufficient income to provide permanent alimony to the petitioner. 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. The respondent is directed to pay permanent alimony of Rs. 5,00,000/- (Rupees Five Lakhs) only to the petitioner and Rs. 5,000/- (Rupees five thousand) only towards litigation expenses.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 30<sup>th</sup> day of October, 2014.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Pusalata Bhol

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.