

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

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

Civil Proceeding No. 361 of 2013

Sri Alekha Kumar Sethi, aged about 31 years,
S/o-Dasarathi Sethi,
At-Gainada, P.O.-Hatabaradihi,
P.S.-Tangi, Dist-Khurda.

... Petitioner

... Versus...

Smt. Rasmita Sethi, aged about 23 years,
C/o- Smt. Satya Sethi (Satyabhama Sethi)
At/P.O.-Koilimunda,
P.S.-Chandahandi,
Dist-Nabarangpur.

... Respondent

Date of Argument : 17.11.2014

Date of Judgment: 22.11.2014

J U D G M E N T

This order arises out of a petition u/s. 13 (1) of the Hindu Marriage Act, 1955 praying for a decree of dissolution of marriage of the petitioner with the respondent on the grounds of desertion and cruelty.

2. The facts of the case of the petitioner are that he married to the respondent as per Hindu rites and customs in the temple of Jagat Janani Maa Kanakdurga, Rental Colony, I.R.C. Village, C.R.P. Square, Bhubaneswar-15 on 29.06.2011 and after marriage, both of them shifted to his village i.e. Gainada in the district of Khurda and stayed there. According to the petitioner in the fourth day night when he tried to keep cohabitation with the respondent, she

refused for the same and requested him that her marriage was performed under compulsion and without her consent and only to satisfy her parents she agreed for the marriage but heartily she had presented her heart to someone else and she did not allow for any cohabitation with him from that date till she deserted him on 20.09.2011. He has further averred that after marriage, the respondent neither like to stay in his house nor behaved properly to his family members as a newly married bride. He has further averred that during the stay of the respondent in his house from 29.06.2011 to 20.09.2011 she neither paid any respect to him and to his parents nor did care for them. When the petitioner opposed the above act of the respondent, the respondent misbehaved him in presence of his friends. After marriage, the respondent talked with somebody hours together over mobile phone and when the petitioner entered to the bed room she stopped talking. The respondent was quarreling with him and his family members without any rhyme or reason and made entire family tension. He has further averred that they have no physical relation since the date of marriage till the respondent left from his house i.e. on 20.09.2011 abandoning him since last two years. The petitioner further averred that from 20.09.2011. In spite of several attempts made from his side, the respondent did not resume her marital relationship with the petitioner for which the petitioner has filed this proceeding claiming for 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 on the part of the respondent to allow the divorce petition?

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

6. The petitioner in his affidavit evidence stated that he married to the respondent on 29.06.2011. He has corroborated the facts stated in his original application. The petitioner has stated that the respondent without rhyme or reason left the matrimonial house voluntarily. P.W. 1 further stated that the respondent was misbehaving and torturing him both mentally and physically and she did not want to join with him. The behaviour of the respondent towards the petitioner and his parents is cruel and unbearable. During her stay with the petitioner, the respondent always talking with somebody in the mid-night and when he entered into the bedroom, she stopped talking over phone. P.W. 1 further stated that in the fourth day night when he tried to keep marital relationship with the respondent, she refused for the same and requested him that her marriage was under compulsion and without her consent and only to satisfy her parents she agreed for the marriage but heartily she had presented her heart to someone else and she did not allow for any cohabitation with him from that date till she deserted him on 20.09.2011. His aforesaid statements have not been challenged by the respondent in any manner. Therefore, it can safely be said that the respondent without any reasonable cause deserted the petitioner voluntarily. From the aforesaid tenor of the evidence, it is as much clear as a noon day that there has been total liquidation of obligation of marriage between the parties since 20.09.2011, meaning thereby that intentional permanent forsaking and abandonment of one spouse by the other without the others consent and

without reasonable cause also meaning not permitting or allowing or facilitating cohabitation between the spouses. This conduct of the parties is a continuous one for last three years. There is also blink chance of their reunion. Therefore, it is a fit case to snap out the marital relation between parties by passing a decree of divorce. 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 22nd day of November, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Sri Alekha Kumar Sethi

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
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