

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

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

Civil Proceeding No. 447 of 2014

Manoranjan Sundar Ray, aged about 46 years,
S/o-Bidupada Mahunta,
Permanent resident of Vill.-Sebasahi,
P.O./P.S.-Rajkanika,
Dist-Kendrapara,
At present:- Plot No. N1/159, P.O.-IRC Village,
P.S.-Nayapalli, Bhubaneswar,
Dist-Khurda.

... Petitioner

... Versus...

Rashmirekha Behera, aged about 42 years,
D/o-Ramakrushna Behera,
W/o-Manoranjan Sundar Ray,
Permanent resident of Vill.-Gangadharpur (Kalikapur),
P.O./P.S.-Rajkanika, Dist-Kendrapara,
At present working as Multipurpose Health Worker (F),
Bahadajhola PHC, At/P.O.-Bahadajhola, P.S.-Odagaon,
Dist-Nayagarh.

... Respondent

Date of Argument: 25.03.2015

Date of Judgment : 04.04.2015

J U D G M E N T

The petitioner has filed this application under Section 9 of the Hindu Marriage Act, 1955 (in short the Act, 1955) with prayer for restitution of his conjugal rights with the respondent.

2. The facts of the case of the petitioner are that he married to the respondent as per Hindu Custom and rites on 11.07.2007 and out of their wedlock one male child namely Bighnesh Sundar Ray was born in SCB Medical College and Hospital, Cuttack on 10.05.2008. According to the petitioner, the respondent used to visit her parental home very often causing disturbance in his own family. According to the petitioner he is practicing Advocacy in

Bhubaneswar. At the time of initiation of marriage proposal the respondent was working as Multipurpose Health Worker (F) at Bahadajhola PHC in the district of Nayagarh. After birth of the male child she stayed in his house and after completion of her Maternity Leave she left for her working place at Bahadajhola along with his mother to look after her as well as the newly born child. On 09.06.2009 at about 7 P.M. the respondent assaulted the small child for which he cried loudly. When he objected the aforesaid work of the respondent and tried to dissuade her from assaulting the small child, the respondent made argument with him and when he countered her, she became violent and misbehaved him, tore his pants and shirts, cut off his mobile charger, threw away his articles and broke the other household articles and thereafter locked the door from inside for which he stayed on the veranda of the rented house throughout the night. Seeing rude behavior of the respondent he called his parents as well as the parents of the respondent. On 10.06.2009 at about 4 P.M. his parents and the mother of the respondent reached there and knowing their arrival the respondent locked the room from outside and went way from house to avoid them. Thereafter he searched but could trace her. On 14.06.2009 at about 12.30 P.M. the respondent returned with her brother and called her mother to her room and locked it from inside without caring him and his parents. Thereafter attempts have been made from his side along with some gentlemen of the locality to settle the dispute between them but the respondent and her family members avoided it on some plea or other and assured them after some days everything will be all right. On 05.06.2011 he along with his mother went to Bahadajhola and reached there at about 3 P.M. Seeing them the respondent locked the door from inside. In spite of his several calls she did not open the door for which his mother stayed in the neighbours house in the night and he was slept on the veranda of her rented house and on the next day they returned. Knowing her arrival to her house during Holi Vacation of 2014, his mother and sister-in-law (younger brother's wife) went to the parental home of the respondent to bring her back but she refused to come. Lastly on 26.07.2014 he himself went to the rented house of the respondent to bring her back and join his company for

betterment of their child but she avoided on various pleas. Finding no other alternative, he 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 in the house of the petitioner on Sebasahi on 11.07.2007 and out of their wedlock one male child namely Bighnesh Sundaray was born in SCB Medical College and Hospital, Cuttack on 10.05.2008. After marriage, they led a happy conjugal life for some days and thereafter from 09.06.2009 the respondent avoided to return to his company despite all his attempt to bring her back with the child. From the above evidence of P.W.1, it is well established that, respondent is his legally married wife and after marriage they led their happy conjugal life for some months and thereafter, the respondent did not take any initiative for continuation of their marital relationship. Rather, on some pretext or 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. 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:

ORDER

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 4th day of April, 2015.

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Witnesses examined for the petitioner:

P.W.1 Manoranjan Sundar Ray

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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