

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

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

Civil Proceeding No. 628 of 2013

Sri Kartika Jena, aged about 33 years,  
S/o-Dhaneswar Jena,  
Vill.-Gangadhar Prasad,  
P.O.-Kamadhanupur, P.S./Dist-Dhenkanal,  
At present:- At-Kantabad, P.S.-Chandaka,  
Dist-Khurda.

... Petitioner

... Versus...

Smt. Snehalata Jena, aged about 28 years,  
W/o-Sri Kartika Jena,  
D/o-Swapneswar Nayak,  
Vill-Balijhari, P.S.-Kanpur  
Dist-Cuttack.

... Respondent

Date of Argument: 18.06.2015

Date of Judgment : 18.06.2015

J U D G M E N T

The petitioner-husband, Kartika Jena 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-wife, Snehalata Jena.

2. The facts of the case of the petitioner are that he married to the respondent as per Hindu Custom and rites in Pachimeswar Temple at Ganadhar Prasad in the district of Dhenkanal on 26.06.2011. According to the petitioner, the respondent is very adamant with volatile temperament and during her stay in his house at Kantabad did not do any household work. The respondent is fond of watching television and videos for which she used to visit neighbour's house and did not cook food in the house for which he has to spend major part of his earnings in hotel for foods. The

respondent during her stay in his house always insisted him to visit various places. The respondent during the advanced stage of pregnancy had created clamor in his house for which crowd gathered and there, she insisted him to visit her parental home and the crowd gathered supported her and accordingly, he immediately took her to her parental home and left there at mid-noon on 17.06.2012. Thereafter on 21.06.2012 the respondent gave birth to a male child in the village hospital and on the next morning he reached in the hospital and had given Rs. 900/- to the father of the respondent in the hospital in presence of the respondent. It is further stated by the petitioner that he went to the parental home of the respondent to bring her back along with the newly born baby after their discharge from the hospital but her father requested him to take them after 21<sup>st</sup> day ceremony of the child for which he returned in good faith. It is further stated by the petitioner that thereafter he went to the parental home of the respondent to bring her back but the respondent refused to come with him and the family members and relatives have supported her. Thereafter several attempts have been made from his side to bring her back but all were in vain. 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 but did not chose to file any document on his behalf. 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 Pachimeswar Temple at Ganadhar Prasad in the district of Dhenkanal on 26.06.2011. Therefore, the respondent is the legally married of the petitioner.

6. The petitioner while being examined as P.W. 1 has stated that the respondent has deserted him without any rhyme or reason on 17.06.2012 and thereafter despite his sincere efforts the respondent join with his company 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:

#### 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 18<sup>th</sup> day of June, 2015.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1        Sri Kartika Jena

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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