

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

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

Civil Proceeding No. 641 of 2013

Rajat Kumar Swain, aged about 30 years,
S/o-Late Lokanath Swain,
Plot No. 780/2057, Santoshi Bihar,
P.S.-Laxmisagar, Bhubaneswar,
Dist-Khurda.

... Petitioner

... Versus...

Laxmipriya Swain, aged about 20 years,
D/o-Banamali Swain,
At-Haladi Basanta, Pamasara,
P.S.-Pipili, Dist-Puri.

... Respondent

Date of Argument: 18.06.2015

Date of Judgment : 18.06.2015

J U D G M E N T

The petitioner-husband, Rajat Kumar Swain 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, Laxmipriya Swain.

2. The facts of the case of the petitioner are that he married to the respondent as per Hindu Custom and rites in Arjuneswr temple, Pamasara on 30.11.2013. After marriage, both of them resided together for 20 days but they have not consummated their marriage due to willful refusal of the respondent. The respondent during her stay in his house the respondent slept separately from him without rhyme or reason even after intervention of both family members. When he asked her about the refusal of the consummation of the marriage, the respondent threatened to implicate him in false cases. On 22.12.2013 the respondent without any rhyme or reason left his house. Thereafter several attempts have been made from his to bring the respondent 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 Arjuneswr temple, Pamasara on 30.11.2013. After marriage, both of them resided together for 20 days but they have not consummated their marriage due to willful refusal of the respondent. The respondent during her stay in his house slept separately from him even after intervention of both family members. When he asked her about the refusal of the consummation of the marriage, the respondent threatened to implicate him in false cases. On 22.12.2013 the respondent without any rhyme or reason left his house. Thereafter several attempts have been made from his side to bring her back but the respondent avoided to return to his company. From the above evidence of P.W.1, it is well established that, respondent is his legally married wife and the respondent deserted the petitioner on 22.12.2013 and despite several attempts have been made by the petitioner to bring her back, the respondent did not join with the company of the petitioner 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.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 18th day of June, 2015.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Rajat Kumar Swain

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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