

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

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

Civil Proceeding No. 769 of 2011

Lokanath Prusty, aged about 36 years,
S/o-Lachhman Prusty,
Vill.-Bainchua, Via-Balakati,
P.S.-Balianta, Dist-Khurda.

... Petitioner

... Versus...

Sakuntala Prusty, aged about 30 years,
W/o- Lokanath Prusty,
D/o- Suman Charan Sahoo,
At-Markendeswar Sahi, P.S.-Puri Town,
Dist-Puri.

... Respondent

Date of argument : 10.09.2014

Date of order : 29.09.2014

ORDER

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 residence of the respondent on 03.05.2001 and led a happy conjugal life for one year and out of their wedlock a male child was born in Puri Hospital on 05.09.2002. The petitioner has averred that respondent started ill treating and abusing in filthy languages to him and his family members and also attempted to assault him physically on several times. She has been going to her parental home frequently without his knowledge and his family members and due to

intervention of his family members and well wisher she again came to his house and became pregnant. While pregnant the respondent had gone to her parental home on 20.08.2003 and there she gave birth a female child namely Rinku on 04.04.2004 and after hearing of birth of the child he went to her parental home to see them and also requested the respondent to come back with him but the respondent became furious and told him to stay with her at her parental home at Puri leaving his parents and family members. The petitioner has further averred that the respondent is vanity, egocentric and rude in nature and behaviour and she also misbehaved him and his family members in front of guest and relatives. The respondent during her leaving from his house had taken away some valuable articles with her. The respondent has also filed an FIR against him which has been registered by the police and the said case bearing G.R. Case No. 3974/03 is pending before Hon'ble S.D.J.M., Bhubaneswar and in the said case he has been released on bail on the direction of the Hon'ble High Court with a direction to him to paid monthly maintenance of Rs. 500/- to the respondent and he has been also regularly paying the same to the respondent. He has averred that while attending the Court of Judge, Family Court, Puri, the respondent along with some anti socials assaulted him physically which was published in various daily News paper dated 19.12.2010 for which apprehending danger to his life he has filed a T.R.P. (Crl.) No. 7 of 2011 before the Hon'ble Court for transfer of all the proceedings from Puri to Bhubaneswar. He has also averred that in T.R.P. (Crl.) No. 7/2011 case the respondent before Hon'ble Court did not agree to join with his company and told to contest the case. The petitioner further averred that from 20.08.2003 the respondent deserted him and went to her parental home with the male child and hence the petition for passing a decree of divorce.

3. The respondent has filed written statement but subsequently she did not participate in the proceeding. Therefore, she has been set ex-parte and ex-parte hearing was taken up.

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 and relied on some documents i.e. Ext. 1 is the copy of the order of the Hon'ble Court dated 23.03.2011 in T.R.P. (CrI.) No. 7 of 2011.

6. The petitioner in his affidavit evidence stated that he married to the respondent on 03.05.2001 and out of their wedlock a male and a female child were born on 05.09.2002 and on 04.04.2004 respectively. 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 and voluntarily deserted him on 20.08.2003. 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 is cruel and unbearable. The respondent assaulted the petitioner and his mother and was reluctant to live with the petitioner to lead a happy conjugal life. P.W. 1 further stated that the respondent along with some anti-socials assaulted him in the Court premises. The respondent also before the Hon'ble Court denied to join with his company. 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 20.08.2003, 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 eleven 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 29th day of September, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Lokanath Prusty

Witnesses examined for the respondent:

None

List of documents by petitioner:

Ext. 1 Copy of order dated 23.03.2011 of the Hon'ble Court in T.R.P.
(Crl.) No. 7/2011

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.