

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

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

Civil Proceeding No. 880 of 2011

Puspakanti Routray, aged about 26 years,
W/o- Sarangadhar Moharana,
D/o- Dinabandhu Rout,
Permanent resident of At/P.O.-Tulanga,
Via-Tiran, Dist-Jagatsinghpur,
At present C/o-Dinesh Sabaria,
Plot No. 597, BJB Nagar,
P.S.-Badagada, Bhubaneswar,
Dist-Khurda.

... Petitioner

... Versus...

Sarngadhar Moharana, aged about 35 years,
S/o-Sridhar Moharana,
At-Oraba, P.O.-Tulanga,
Via-Tiran, P.S/Dist-Jagatsinghpur.

... Respondent

Date of argument : 14.11.2014

Date of order : 14.11.2014

ORDER

This order arises out of a petition U/s. Sec.13 (1) (i-a) (i-b) of the Hindu Marriage Act, 1955 (in short, the 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 case of the petitioner is that, she married to the respondent according to Hindu rites and customs at Cuttack on 05.10.2005 and out of their wedlock one female child namely Kalpana was born. After marriage, both of them led their conjugal life in the house of the respondent and some days

after marriage, they shifted to Bhubaneswar and stayed in a rented house. According to the petitioner one year back the respondent left her and now she is living separately with his family members after forcefully keeping her minor daughter. She has averred that the respondent is an adamant egoistic and high temperament man and always abused her with the spell of liquor without any rhyme or reason. She has further averred that she came to know that the respondent has kept illicit relation with another lady and tortured her both physically and mentally. Several attempts have been made by her to return to the company of the respondent with her daughter but in vain. Finding no alternative she had sent an advocate notice on 10.10.2011 to the respondent to take her back along with her daughter which could not be proficient. Therefore, she has filed this case seeking 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 and cruelty on the part of the respondent to allow the petition for divorce?

5. The petitioner in order to prove her case she, herself, has been examined P.W. 1.

6. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 13(1) (i-b) of the Act, 1954 provides that the other party has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition. The petitioner at paragraph-4 of his petition has stated that the respondent deserted her since one year back. The petition for divorce in this case is presented in the Court on 02.12.2011. Thus, it is clearly established that the petition has been filed before completion of two years from the date as alleged by the petitioner. Thus, the ground of desertion held not established.

7. The residue point that remains to be discussed is cruelty. P.W.1 In her evidence has narrated the facts and circumstances of his marriage and subsequent cruelty made by the respondent. She has further stated that the

respondent has got extra marital relationship with another lady and tortured her both physically and mentally and she has no physical relationship with respondent. The evidence of P.W.1 remains unchallenged. There is no reason to disbelieve the evidence of P.W.1. Extra marital relationship of respondent is the main cause for entire family dispute. The respondent without any rhyme or reason left the rented house and subjected the petitioner with cruelty and they have no physical relationship since long. Avoidance of cohabitation of the respondent with the petitioner amounts to cruelty. Therefore, the petitioner could successfully establish the ground of cruelty which is one of the ingredients u/s. 13 (1) (ia) of the Act for granting 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 14th day of November, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Puspakanti Routray

Witnesses examined for the respondent:

None

List of documents by petitioner:

None

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.