

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

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

Civil Proceeding No. 97 of 2014

Rojalin Mohapatra, aged about 23 years,  
Wo- Chakradhar Mohapatra,  
C/o-Shyam Kumar Behera,  
Plot No. 243, Shastri Nagar, Bhubaneswar,  
P.O.-P.M.G., P.S.-Kharavel Nagar, Dist-Khurda.

... Petitioner

... Versus...

Sitikantha Nanda, aged about 31 years,  
S/o-Sikandar Nanda,  
C/o-K.C. Dehuri, At/P.O.-Plot No. 1253,  
Beherasahi, P.S.-Nayapalli, Bhubaneswar,  
Dist-Khurda.

... Respondent

Date of Argument: 11.02.2015

Date of Judgment : 02.03.2015

J U D G M E N T

The petitioner Rojalini Mohapatra has filed this Civil Proceeding U/s-12 of Hindu Marriage Act to declare her marriage with the respondent Sitikantha Nanda is as void and to annul the marriage by passing a decree of nullity.

2. The case of the petitioner is, inter alia, that their marriage was solemnized in Community Hall, Old A.G. Colony, Bhubaneswar on 24.01.2014. It is the further case of the petitioner that the guardians of both spouses by fraud and misrepresentation obtained her consent and without her consent

solemnized the marriage. She has also observed that the respondent was also not willing for the marriage and gave his consent by force. According to the petitioner, after marriage, they have not resided together for a single day as husband and wife and as such the marriage was not consummated. She has further averred that she has left the company of the respondent soon after the marriage on mutual consent and now is living separately. She has further averred that she has also received all the belongings/ movables presented to the respondent by her parents at the time of marriage and as per the mutual settlement between them the ornaments will be received by her before filing of this petition in Court. Therefore, she has prayed to declare the marriage as void and thereby the same may be annulled by a decree of nullity.

3. The respondent did not file any written statement or contested the proceeding.

(i) From the aforesaid evidence of the petitioner, the question that requires to be adjudicated is whether the alleged marriage was not consummated due incapacity of the husband to consummate the marriage within one year of the marriage?

4. The petitioner in order to prove her case she, herself has been examined as P.W. 1 and did not chose file any document on her behalf. The respondent did not chose to examine either any oral or documentary evidence.

6. The petitioner sought the marriage to be declared as void on the ground that the respondent is not competent to consummate the marriage within one of the marriage. The respondent has not challenged the said statement of the petitioner either by examining himself as a witness or any person on his behest or file any document or file any written statement denying allegation of the petitioner. Therefore, in view of Order 8 Rule II of the C.P.C. it shall be lawful to the court to grant the relief to the petitioner as claimed. Hence ordered;

ORDER

The petition filed by the petitioner succeeds. The marriage between the petitioner and the respondent dated 24.01.2014 is hereby annulled.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 2<sup>nd</sup> day of March, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1       Rojalin Mohapatra

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.