

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

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

Civil Proceeding No. 322 of 2013

Braja Kishore Mohapatra, aged about 42 years,  
S/o-Sadasiba Mohapatra,  
of Gopalpur, P.O.-Lalbag,  
P.S.-Jajpur Town, Dist-Jajpur,  
At present residing at Plot No. 97, Jharapada,  
P.O./P.S.-Laxmisagar, Bhubaneswar,  
Dist-Khurda.

... Petitioner

... Versus...

Khursida Bano @ Madhusmita Mohapatra, aged about 34years,  
W/o-Braja Kishore Mohapatra,  
D/o-Mir Sayed Ali,  
Vill.-Gopalpur, P.O.-Lalbag,  
P.S.-Jajpur Town, Dist-Jajpur,  
At present Plot No. 30/1667 (A), Meherpali,  
Jharapara, P.O./P.S.-Laxmisagar,  
Bhubaneswar, Dist-Khurda.

... Respondent

Date of argument : 20.08.2014

Date of order : 03.09.2014

O R D E R

This order arises out of a petition u/s. 27 of the Special Marriage Act, 1954 (in short, the Act 1954) 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 are as follows:-

The petitioner belongs to Hindu community whereas the respondent is Mohamadian community and there was love with one another. The marriage of the petitioner with respondent was solemnized

before the Marriage Officer, Khurda at Bhubaneswar on 11.01.1999 as per Sec.5 of Special Marriage Act and out of their wedlock one male child namely Taneesh Mohapatra was born on 01.06.2005 at Qr. No. 324, Niladri Vihar, Chandrasekharapur, Bhubaneswar. He has averred that when the family members of the petitioner refused to accept the proposal, he left his family members so also his native place and started residing in a rented house at Bhubaneswar. He has averred that after marriage, the respondent has changed her name from Khursida Bano to Madhusmita Mohapatra by virtue of an affidavit. He has averred that at the time of marriage he was working at the office of Bajaj Allianz Insurance Company having good income there. He has averred that the respondent was a very adamant lady who wants always to have a luxury life having good food and gorgeous garments and most of times required meals from hotel for which the petitioner had spent his valuable times to please the respondent neglecting his work for which he has lost his public contact and suffered a great loss in his business in the Insurance Company and got less amount than previous income, for which the respondent did not adjust with him and started cruelty with the petitioner by demanding many things, gold ornaments and etc, and when the petitioner showed his inability she angrily said she does not want to live with the petitioner . On 10.02.2011 the respondent left his rented house with his son while he has gone to the market for shopping. He has averred that some days after searching he could able to find the respondent at her friend's house and when he requested her to join with his company the respondent strictly refused to join with him and the respondent went to her parental home. He has further averred that on inquiry he came to know that his son has admitted in Ruchika School for his schooling and his name has been admitted as Tanisha Raja instead of Taneesh Mohapatra mentioning his mother's name Khursida Bano and father's name as Md. Razak. Since then the petitioner tried his best for their reunion but the respondent did not want to join his

company and since then they have no physical relationship. He has further averred that the respondent is working as Administrator in the office of Adarsha Group of Construction and is getting Rs. 20,000/- per month whereas he is working as Supervisor in Sibani Escon Pvt. Ltd. at Bhubaneswar and is getting Rs. 5,000/- per month and living in a miserable condition. He has further averred that the respondent without any rhyme or reason deserted him since 10.02.2011. Since the torture and cruelty by the respondent has become in-tolerable she has filed this proceeding 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 his case he, himself, 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 27 (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-6 of his petition has stated that the respondent deserted her since 10.02.2011. The petition for divorce in this case is presented in the Court on 02.07.2013. Thus, it is clearly established that the petition has been filed after completion of two years from the date as alleged by the petitioner. From the aforesaid tenor of the evidence, it is as much as clear as noon day that there has been total liquidation of obligation of marriage between the parties since 10.02.2011, 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. The respondent without any rhyme and reason deserted the petitioner. This conduct of the parties is a continuous one for last three 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.

7. The residue point that remains to be discussed is cruelty. Admittedly, without knowledge of the husband leaving the rented house and demanding gold ornaments and other valuables is the act of cruelty. Therefore, the petitioner could successfully establish the ground of cruelty which is also one of the ingredients u/s. 27 (d) of the Act for granting a decree of divorce. Hence, it is ordered;

#### O R D E R

The petition of the petitioner is allowed ex-parte without cost. A decree of divorce is passed in favour of the petitioner 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 3<sup>rd</sup> day of September, 2014.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Brajakishore Mohapatra.

Witnesses examined for the respondent:

Nil

List of documents by petitioner:

Nil.

List of documents by respondent:

Nil.

JUDGE, FAMILY COURT,  
BHUBANESWAR.