

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

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

Civil Proceeding No. 151 of 2015

Sri Biswajiban Patnaik, aged about 39 years,
S/o-Janakiballav Patnaik,
Plot No. 165/A, Aditya Nagar, Vill.- Botonda, P.O.-Kuha,
Via-Old Town, Bhubaneswar, P.S.-Airfield, Dist-Khurda. 751002
Present and permanent address:- Plot No. 165/A, Aditya Nagar,
Vill.- Botonda, P.O.-Kuha, Via-Old Town, Bhubaneswar, P.S.-
Airfield, Dist-Khurda. 751002.

... Petitioner

... Versus...

Rasmiprativa Senapati, aged about 23 years,
W/o-Biswajiban Patnaik,
D/o-Biswanath Senapati,
Vill/P.O.-Kuha, Via-Old Town, Bhubaneswar,
P.S.-Airfield, Dist-Khurda-751002.
Present and permanent address:- Plot No. 165/A, Aditya Nagar,
Vill.- Botonda, P.O.-Kuha, Via-Old Town, Bhubaneswar, P.S.-
Airfield, Dist-Khurda. 751002

... Respondent

Date of Argument : 29.06.2015

Date of Judgment: 30.06.2015

J U D G M E N T

The petitioner-husband, Biswajiban Patnaik has filed this application under Section 9 of the Hindu Marriage Act, 1955 read with Section 7 of the Family Courts Act (in short the Act, 1955) with prayer for restitution of his conjugal rights with the respondent-wife, Rasmiprativa Senapati.

2. The facts of the case of the petitioner are that he married to the respondent as per Hindu Custom and rites on 14.05.2011. According to the petitioner, their marriage was love marriage and the marriage was a dowry less marriage. It is the case of the petitioner that after marriage, they started

resided in his brother's house at Chandrasekharpur and after fifteen days, the respondent insisted him to live separately from his brother for which he had taken a house on rent nearer to the house of his brother. During their stay there, he purchased one necklace owing two varies, one pair of bangles by spending huge amount of money to satisfy her. It is further stated by the petitioner that the respondent during her stay there frequently visited to his house and during their visit they insulted him by aspersing his caste stating that she is "Brahmin" by caste and the petitioner is "Karan" by caste and also compared their status as that of his status and tried to dominate him in order to fulfill their evil hidden desire and created disturbance in their family life. On 02.07.2014, when he was absent from the house, the uncle of the respondent namely Baidyanath Senapati (younger brother of the father of the respondent) came and impressed on the respondent that her mother is seriously ill and she wants her presence for which the respondent went to her parental home with her uncle to look after her mother by wearing all the gold ornaments which he had purchased for her without giving any information to him. At about 4 O' Clock after his arrival in his house when he found her absence, he contacted the respondent, the respondent informed him due to illness of her mother she came to her parental home. Thereafter, he advised her to stay there for five or six days there and after recovery of her mother to come to his rented house as her father is staying at Parikud in his service place. On 10.07.2014 after a week when he visited to the parental home of the respondent in order to bring her back, the respondent and his family members did not allow her enter into into their house and abused him in filthy languages and threatened for dire consequence. Thereafter several attempts have been made from his side to bring her 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 on 14.05.2011. Therefore, the respondent is the legally married of the petitioner.

6. The petitioner while being examined as P.W. 1 has stated that the respondent has deserted him without any rhyme or reason on 10.07.2014 and thereafter despite his sincere efforts the respondent did not join with his company 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:

O R D E R

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.

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Dictated, corrected by me and is pronounced on this the 30th day of June, 2015.

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Witnesses examined for the petitioner:

P.W.1 Sri Biswajiban Pattnaik

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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