

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

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

Civil Proceeding No. 16 of 2015

Durgamadhab Barala, aged about 32 years,
S/o-Ramesh Chandra Barala,
At-Ogarasuan, P.O.-Janla, P.S.-Jatni, Dist-Khurda.

... Petitioner

... Versus...

Puspanjali Barala, aged about 28 years,
W/o-Durgamadhab Barala,
D/o-Purna Chandra Mohapatra,
Village-Sudagara, P.O.-Tipuri,
P.S.-Kanasa, Dist-Puri.

... Respondent

Date of Argument : 20.01.2016

Date of Judgment: 27.01.2016

J U D G M E N T

The petitioner-husband, Durgamadhab Barala, has filed this petition under Section 9 of the Hindu Marriage Act, 1955 (in short the Act, 1955) with a prayer for restitution of his conjugal rights with the respondent-wife, Puspanjali Barala.

2. The facts of the case of the petitioner are that he married to the respondent as per Hindu custom and rites on 16.05.2010 and out of their wedlock one son namely Shravan Kumar was born on 09.08.2011. According to the petitioner after birth of the son, the respondent went to her parental home and during the month of October, 2011 when he went to her parental home to bring her and her minor son back to his house, the respondent refused to accompany her on the ground of separate living to which her parents supported it. Some days thereafter he has taken a house on rent. In the month of December, 2011 surprisingly the mother of the respondent came with her who stayed there with them. During their stay, the respondent at the

instigation of her mother created unpleasant situation on silly matters. It is averred by him that the respondent did not allow his parents to visit his rented house when they came to see their grandson. On 01.01.2012, the respondent went to her parental home along with the minor son. Fifteen days thereafter, he and his mother visited to the parental home of the respondent to bring them back and during that visit the respondent and her mother misbehaved him and refused to return with them. Thereafter several attempts have been made from his side to bring her back but all were in vain. Thereafter he sent a pleader notice to the respondent to join his company but the respondent did not paid any heed to it. Hence, the petition.

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 16.05.2010 and out of their wedlock one son namely Shravan Kumar was born on 09.08.2011. Therefore, it is established that the respondent is the legally wedded wife 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 since 01.01.2012 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, it is 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 27th day of January, 2016.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Sri Durgamadhab Barala

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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