

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

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

Civil Proceeding No. 192 of 2014

Srimanta Das, aged about 42 years,
S/o-Late Srinibas Das,
At/P.O./P.S.-Panikoili, Dist-Jajpur, Pin-7550943
At present HIG-49, Lumbini Vihar,
Chandrasekharapur, Bhubaneswar 751021

... Petitioner

... Versus...

Pritirekha Swain, aged about 31 years,
W/o-Srimanta Das,
D/o-Pratap Chandra Swain,
At/P.O.-Oskana, P.S.-Balikunda, Dist-Jagatsingpur.
At present:- A/E-193, VSS Nagar, P.O./P.S.-Saheed Nagar,
Bhubaneswar-751007.

... Respondent

Date of Argument : 16.11.2015

Date of Judgment : 21.11.2015

J U D G M E N T

The petitioner-husband has filed a petition U/s. 13 of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of his marriage with the respondent-wife on the grounds of desertion and cruelty.

2. The facts of the case of the petitioner are as follows:-

The marriage of the petitioner with respondent was solemnized according to Hindu rites and customs on 16.05.2008. It is the case of the petitioner that since the date of marriage, the respondent was talking with somebody in the

midnight for hours. On his asking she disclosed that earlier she has got illicit relationship with a boy. On 13.09.2008 i.e. after four months of marriage the respondent without his and his family members knowledge left his house and returned after three days. On his query, he came to know that she had not gone to her parental home. On asking to her she has not disclosed where she had gone. It is further averred by him that at the time of marriage, he was serving in a private company and the respondent was serving as a High School Teacher but unfortunately he has lost his job in the year 2010 for which the respondent insulted him in public by calling him "Michua, Bekaria, Chhotlok etc." According to the petitioner, the respondent without any rhyme or reason left his house 04.05.2013. It is further averred by him that the respondent found moving with her paramour with whom she has extra marital affairs. Since the torture and cruelty by the respondent became in-tolerable she has filed this proceeding seeking a decree of divorce on the grounds of desertion and cruelty.

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 and whether the petitioner is entitled for permanent alimony in case divorce is allowed in favour of the petitioner?

5. The petitioner in order to prove her case she, herself, has been examined as P.W. 1 and relied on two documents. They are:- Ext. 1 is the Marriage Invitation Card, Ext. 2 is the house rent renewal deed, Ext. 3 is the mobile phone post paid bill, Ext. 4 is the cooking gas consumer card and Ext. 5 is the affidavit of Srimanta Das.

6. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 13 (i) (b) of the Act, 1955 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-7 of his petition has stated that the respondent deserted him since 04.05.2013. The petition of divorce in this case is presented in the Court on 16.05.2014. Thus, it is clearly established that the petition has been filed before completion of two years from the date as alleged by the petitioner. Hence, the ground of desertion held not established.

7. The residue point that remains to be discussed is cruelty. Talking with the person with whom the petitioner had illicit relationship before her marriage in the midnight over telephone since the date of marriage, leaving the matrimonial house with her paramour without knowledge of the petitioner and his family members for three days, not disclosing her whereabouts during her absence from the house, calling Michua, Bekari, chhotolok in public are the circumstances sufficient enough to attribute mental torture perpetrated by the respondent on petitioner. Additionally, the respondent has non-sexed the petitioner for more than one year which also adds mental cruelty. Therefore, the petitioner could successfully establish the ground of cruelty which is also one of the ingredients u/s. 13 (1) (i-a) of the Act for granting a decree of divorce.

ORDER

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 21st day of November, 2015.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Srimanta Das

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

- Ext. 1 Marriage Invitation Card
- Ext. 2 House rent renewal deed
- Ext. 3 Mobile phone post paid bill
- Ext. 4 Cooking Gas Consumer Card
- Ext. 5 Affidavit of Srimanta Das

List of documents by Opp. Party:

Nil

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