

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

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

Civil Proceeding No. 251 of 2014

Sri Dipak Kumar Naik, aged about 34 years,  
S/o-Sri Damodar Naik,  
Residing at Mangala Basti, Harijana Sahi,  
Baramunda, P.O.-Baramunda,  
P.S.-Khandagiri, Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Smt. Nanu Naik, aged about 27 years,  
W/o- Sri Dipak Kumar Naik,  
D/o-Sri Bandhua Naik,  
At/P.O.-Padanpur, Banki, Dist-Cuttack, Odisha.

... Respondent

Date of Argument : 09.11.2015

Date of Judgment : 16.11.2015

J U D G M E N T

The petitioner-husband has filed a petition U/s. 13 (1) of the Hindu Marriage Act, 1955 (in short, the Act 1955) read with Section 10 of the Act of 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 as per Hindu Custom and rites on 03.08.2010 and they have no issue out of their wedlock. It is the case of the petitioner that from the very beginning of the marriage, the respondent showed adamant behaviour towards him and also avoid for conjugal relation. The respondent did not do any household work during her stay in his house. She has abused him and his family members on

silly matters. She has also assaulted him and his family members. The respondent used to stay several times in her parental home and with the interference of his family members and relations, she came to his house and the respondent while staying in his house created disturbance in the family for which his family life became ruined. The father of the respondent and her elder sister namely Mamata Naik abused and assaulted him in public. The respondent has also told to him that her marriage was solemnized against her will. She has also insisted him to live separately apart from other family members. According to the petitioner, the respondent deserted him since 28.01.2011. Thereafter several attempts have been from his side to bring her back but all were in vain. The respondent while leaving his house had taken all her ornaments and gift articles and other articles which she had brought at the time of marriage. Since the respondent debarred him from marital relationship, it is not possible for him to reside with the respondent and therefore, he 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 following points are formulated for determination of the case:-

(i) Whether the respondent deserted the petitioner?

(ii) Whether the circumstances and back grounds depicted in the narration of the petitioner's case constitute cruelty by the respondent on the petitioner and if so, whether the petitioner is entitled for a decree of divorce?

5. The petitioner in order to prove his case he, himself, has been examined P.W. 1 but chose not file any document on his behalf.

**Point No.I**

Whether the respondent deserted the petitioner?

6. The petitioner sought divorce on the ground of respondent's desertion. It is needless to say Section 13(1) (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-10 of his petition has stated that the respondent deserted him since 28.01.2011. The petition for divorce in this case is presented in the Court on 28.06.2014. Thus, it is clearly established that the petition has been filed after completion of two years from the date as alleged by the petitioner. The evidence of the petitioner established the fact that the respondent has not taken any efforts for her reunion with the petitioner. It is further established that the respondent avoided for sexual relation with the petitioner. Thus, from the 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 28.01.2011, meaning thereby that intentional permanent forsaking and abandonment of the petitioner by the respondent without the petitioner's consent and without reasonable cause also meaning not permitting or allowing or facilitating cohabitation between them. The respondent without any rhyme or reason deserted the petitioner and subjected him to cruelty. This conduct of the respondent is a continuous for more than 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. In other words the petitioner could establish the ground of desertion.

**Point No.II**

Whether the circumstances and back grounds depicted of the narration in the petitioner's case constitute cruelty by the respondent on the petitioner and if so, whether the petitioner is entitled for a decree of divorce?

7. Now the next point for consideration is cruelty. Abusing and assaulting the petitioner in public, not co-operating for consummation of marriage, not doing any household work, insisting the petitioner for living separately apart from his family members are the some of the facts and circumstances indicating the cruel conduct of the respondent on the petitioner. Therefore, the petitioner could also establish the ground of cruelty and as such she is entitled to a decree of divorce both on the grounds of desertion and cruelty.

Hence, it is ordered;

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 16<sup>th</sup> day of November, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1        Sri Dipak Kumar Naik

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.