

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

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

Civil Proceeding No. 260 of 2014

Sri Bhibu Prasad Mohapatra, aged about 53 years,  
S/o-Late Lakshman Mohapatra,  
At-Narendrapur, P.O.-Nuasomeswarpur,  
P.S.-Satyabadi, Dist-Puri.  
At present Plot No. 99, C/o-Annapurna Patra,  
Raghunath Nagar, P.O.-Dumuduma,  
P.S.-Khandagiri, Bhubaneswar-19,  
Dist-Khurda.

... Petitioner

... Versus...

Smt. Harpriya Dash, aged about 46 years,  
W/o-Sri Bibhu Prasad Mohapatra,  
Plot No. 99, C/o-Annapurna Patra,  
Raghunath Nagar, P.O.-Dumuduma,  
P.S.-Khandagiri, Bhubaneswar-19, Dist-Khurda,  
At present-C/o-Hrudananda Das,  
At/P.O.-Talamali Sahi, Police Line, Puri,  
Dist-Puri.

... Respondent

Date of Argument : 29.06.2015

Date of Judgment: 30.06.2015

J U D G M E N T

The petitioner-husband, Bibhu Prasad Mohapatra has filed this application under Section 9 of the Hindu Marriage Act, 1955 (in short the Act, 1955) read with Sec. 7 (1) (b) and explanation (a) to Sec. 7 of the Family Court Act, 1984 with prayer for restitution of his conjugal rights with the respondent-wife, Harpriya Dash.

2. The facts of the case of the petitioner are that he married to the respondent as per Hindu Custom and rites in Devaraj Kalyan Mandap near Radha Krishna Temple, Sakhigopal in the district of Puri on 17.12.1996 and out of their wedlock a female child namely

Subhasmita was born on 27.09.1997 and a male child namely Jagdish Prasad. According to the petitioner, after one month of marriage he went to his business place at Patna in the month of January, 1997. The respondent during her stay in his house after three months started torturing his family members without any rhyme or reason and created unhealthy situation in his family. She has threatened to commit suicide and after hearing such he immediately return to his house in the month of June, 1997 from his business place. In the month of July, 1997 he left her in her parental home for her delivery and taken all her care for her safe delivery. In the month of March, 1998 he brought her along with the minor child to Balanga and stayed in a rented house of Sri Purna Chandra Sahoo where he has stated a grocery shop in partnership with one Hemant Kumar Lenka. The respondent during her stay there frequently visited to her parental home without his consent. During her stay there, the respondent quarreled with Smt. Satyabhama Sahoo wife of Sri Purna Chandra Sahoo for which he compelled to vacate the house and thereafter both of them stayed in his house. During her stay in his house, she picked up quarrel in connection with cleaning of cooking gas stove on 26.01.2001 for which he was compelled to take another house on rent of one Chitaranjan Das at Golla Sahi of Balanga. In the month of November, 2002 both of them settled in Plot No, L-1303 at Housing Board Colony, Phase-II, Dumuduma of Sri Dharanidar Sahu and while staying the respondent along with his son and daughter went to her parental home at Puri 05.06.2011. 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 in in Devaraj Kalyan Mandap near Radha Krishna Temple, Sakhigopal in the district of Puri on 17.12.1996 and out of their wedlock a female child namely Subhasmita was born on 27.09.1997 and a male child namely Jagdish Prasad. 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 05.06.2011 and thereafter despite his sincere efforts the respondent 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 30<sup>th</sup> day of June, 2015.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1        Sri Bibhu Prasad Mohapatra

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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