

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

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

Civil Proceeding No. 266 of 2012

Smt. Rashmita Sahoo, aged about 25 years,
W/o-Purastam Sahoo,
D/o-Trinath Sahoo,
Resident at Qrs No. 2RA-5/3,
OUAT Colony, Unit-8, P.S.-Khandagiri,
Bhubaneswar, Dist-Khurda.

... Petitioner

... Versus...

Purastam Sahoo, aged about 30 years,
S/o-Saheba Sahoo,
Village/P.O.-Hariharpur,
P.S.-Saranakul, Dist-Nayagarh.

... Respondent

Date of Argument : 04.12.2015

Date of Judgment : 15.12.2015

J U D G M E N T

The petitioner has filed a petition U/s. 18 of the Hindu Adoption and Maintenance Act, 1956 (in short, the Act 1956) claiming a monthly maintenance of Rs.10,000/- and litigation expenses of Rs. 10,000/- from the respondent.

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

The marriage of the petitioner with respondent was solemnized in Bhubaneswar on 12.05.2008. It is averred by the petitioner that her father had fulfilled all the demand of the respondent and his family members at the time of marriage. According to the petitioner they led a happy matrimonial life for some days. Thereafter she was subjected to torture both physically and mentally by the respondent and his family members due to additional demand

of dowry of Rs. 1,00,000/-. When the torture became unbearable she intimated the said fact to her parents and on 27.04.2009 she came to her parental home with her mother. While leaving her matrimonial house, the respondent assured to bring her back within a short period but neither the respondent nor his family members come to take her back till date. Thereafter several attempts have been made from her side to settle the dispute but all were in vain due to willful refusal of the respondent and his family members. According to the petitioner she has no source of income to maintain herself whereas the respondent is working in a spinning mill at Gujrat and is earning Rs. 35,0000/- per month, besides he has vast landed property in his village out of which he is getting Rs. 2,00,000/- per annum. Apart from that he has got other sources of income. Since the respondent having sufficient means will-fully neglected and refused to maintain the petitioner, who is legally wedded wife, the petitioner-wife is obliged to file the present petition claiming a monthly maintenance of Rs. 10,000/- and litigation expenses of Rs. 10,000/- from the respondent.

3. The respondent did not enter contest the petition and therefore, is set ex-parte.

The following points are formulated to resolve the controversy:-

- (1) Whether petitioner is the legally married wife of the respondent and petitioner has sufficient cause to live separately from the respondent?
- (2) Whether the respondent having sufficient means has neglected and refused to maintain the petitioner?
- (3) What would be the quantum of maintenance to be allowed to the petitioner, if point No. 1 and 2 are answered in her favour?

4. The petitioner in order to prove her case she, herself, has been examined P.W. 1 but chose not to file any document on her behalf. The petitioner in her affidavit evidence has stated that she married to the respondent in Bhubaneswar on 12.05.2008. Her aforesaid statements have not been challenged. Thus, it can safely be concluded that the petitioner is the legally wedded wife of the respondent.

5. P.W.1 has also stated that she was subjected to torture both physically and mentally by the respondent and his family members due to non fulfillment their additional demand of dowry of Rs. 1,00,000/-. P.W. 1 further stated that when the torture became unbearable she intimated the said fact to her parents and on 27.04.2009 she came to her parental home with her mother. While leaving, the respondent assured her to bring her back within a short period but neither the respondent nor his family members come to take her back till date. Thereafter several attempts have been made from her side to settle the dispute but all were in vain due to willful refusal of the respondent and his family members. Her aforesaid evidence gone unchallenged. Therefore, the petitioner has sufficient cause to live apart from the respondent and as such she is entitled to get maintenance from the respondent.

6. The next question for consideration is whether the respondent has sufficient means and refused to maintain the petitioner. It is stated categorically by the petitioner that the respondent is working in a spinning mill at Gujrat and is earning Rs. 35,0000/- per month, besides he has vast landed property in his village out of which he is getting Rs. 2,00,000/- per annum whereas she is merely a housewife having no separate income and unable to maintain herself. She has also stated that the respondent has not provided a single farthing to her since the date of leaving her matrimonial home. This facts and circumstance is clearly suggestive of the facts that the respondent having sufficient means not only willfully neglected but also refused to maintain the petitioner, who has no sufficient means to support herself. Therefore, the respondent is liable to provide maintenance to the petitioner.

7. The next question for consideration is the quantum of maintenance. Though the petitioner has stated the above income of the respondent yet, failed to file any document to establish the same. Be that as it may, the Opp. Party is an able bodied man having potential to earn his livelihood. Considering the cost of living and other attendant circumstances, in as much as, the income of the respondent, I feel in the ends of justice and equity, a

sum of Rs. 3,000/- per month to the petitioner-wife would be just and proper, which according to me, would not allow to petitioner and her minor son to lead a princely and luxury life and also at the same time it would not put the respondent to any vagrancy. Hence ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. The respondent is directed to pay a monthly maintenance of Rs. 3,000/- to the petitioner-wife from the date of filing of application i.e. on 24.07.2012. The respondent is further directed to clear up all the arrear maintenance within two months hereinafter. He is also directed to pay the current monthly maintenance within the 1st week of the succeeding month. The respondent is further directed to pay litigation expenses of Rs.3,000/- to the petitioner-wife. Failure to carry out the order by the respondent, the petitioner is at liberty to levy execution through due process of law.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 15th day of December, 2015.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Smt. Rashmita Sahoo

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.