

IN THE COURT OF JUDGE, FAMILY COURT, BHUBANESWAR.

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

Civil Proceeding No. 305 of 2013  
(Under Section 13 (B) of Hindu Marriage Act, 1955)

Kishnendu Nandy, aged about 36 years,  
S/o- Rajendu Nandy,  
Permanently residing at MB-34,  
Badagada Brit Colony, P.S.-Badagada,  
Bhubaneswar, Dist-Khurda.

..... Petitioner No. 1

AND

Tapati Nandy, aged about 36 years,  
W/o- Krishnendu Nandy,  
D/o-Late Sambu Nath Pal,  
Presently residing at Plot No. 505, Daspara, Road,  
Thakurpukur, Kolkata-63.

..... Petitioner No. 2

Date of argument : 04.08.2014

Date of judgment : 04.08.2014

### J U D G M E N T

The petitioners have filed this application Under Section 13(B) of the Hindu Marriage Act, 1955 for divorce by mutual consent.

2. The case of the petitioners in brief is that their marriage was solemnized as per Hindu customs and tradition on 27.04.2001 and certified by the Marriage Officer, Kolkata and consummated their marriage at Bhubaneswar in the parental house of the petitioner No. 1 in MB-34, Badagada Brit Colony and thereafter shifted to the rented house of the petitioner No.1 at 1/45 Banja

Apartment, Near Banadurga Maindir, Unit-6 Bhubaneswar 751001. Out of their wedlock one male child namely Ronnith Nandy was born to them on 24.05.2004. They have enjoyed a happy material life for nine years. Thereafter differences arose between them which could not be resolved and as such they have been living separately since 05.09.2010. Therefore, they have been living separately more than four years. The petition was filed more than one year back i.e. 25.06.2013. It is further averred that several attempts have been made by the family members, friends and well wishers for their reunion but in vain. It is further averred that there was an agreement between the parties and as per that agreement whatsoever dowry articles were there have been exchanged between them and petitioner No. 1 has offered to sell the land admeasuring 45.9 decimals at Plot No. 235, Mouza-Meherpalli, Santoshi Vihar, Khata No. 645/52 and utilized 50% of the proceeds of sale thereof, as recorded on the registered sale deed, to create a Fixed Deposit in any nationalized bank in the name of Ronnith Nandy, for a period of 8 years, which he shall be given access to after attaining the age of 17 years (and which shall be utilized for funding his higher education and expense incidental thereto). It is clarified that in case Ronnith Nandy has become a major in the eyes of law when he applies for higher studies, then the receipts from the matured Fixed Deposit must be directly handed over to him. However, if he is yet to become a major in the eye of law, in which regard, the petitioner No.1 shall have sole direction and his decision shall be final and binding. The remaining 50% of the proceeds of sale, as recorded on the registered sale deed, would be handed over to petitioner No. 2 which the petitioner No. 1 paid Rs. 2,76,000/- by D.D. No. 360155 and 360156 amounting Rs. 45,000/- and Rs. 45,000/- respectively and DD. Nos. 360175, 360176, 360177, 360178, 360237 amounting Rs. 45,000/-, Rs. 45,000/-, Rs. 45,000/-, Rs. 6,000/- respectively dated 19.12.2013 by way of demand draft. This demand draft or banker's cheque would be presented at the time of drawing up of the decree in the instant application before this Hon'ble Court and petitioner No. 1 would furnish a sum of Rs. 9,00,000/- (Rupees nine

lakhs only) out of which the petitioner No. 1 paid a sum of Rs. 2,00,000/- (Rupees two lakhs only) by D.D. No. 360217 drawn on Karnataka Bank, Kallasa Branch dated 14.12.2013 and rest Rs. 7,00,000/- (Rupees seven lakhs only) will be handed over on the day of final hearing by Bank Draft, by way of a separate demand drafts/banker's cheque at the time of drawing up of the decree in the present application before this Hon'ble Court. This comprehensive agreement would be in satisfaction of permanent alimony. Petitioner No. 2 agrees to the above arrangement of permanent alimony and will not raise any claims in future, in any manner whatsoever, against the petitioner No. 1, after the decree is drawn up on the present case. Further petitioner No. 1 shall reimburse the petitioner No. 2 for all educational expenses incurred for Ronnith Nandy, as per actual expenses incurred supported by bills. In the event of any major illness of Ronnith Nandy which requires his hospitalization, petitioner No. 1 shall be present physically for the entire period of hospitalization and shall bear the complete expenses of his treatment and hospitalization. Parties with a view to providing the best possible parenthood to Ronnith Nandy in the present circumstances, have agreed that Ronnith Nandy will remain in the custody of petitioner No. 2 till he satisfaction. Petitioner No. 1 shall visit Ronnith Nandy at least once a month for days at a mutual convenience. Both parties will be present for all school functions and public appearances of Ronnith Nandy and will ensure that he does not face any public embarrassment for their evidence. Ronnith Nandy's vacations have also been mutually agreed to be shared between the parties. Parties shall mutually co-operate in this regard, and make their best efforts to perform their parental obligations towards Ronnith Nandy. The petitioner No. 1 agrees to take Ronnith Nandy for at least one vacation (which shall be to any location other than petitioner No. 1's city of residence) every year. Both the petitioners would ensure that in all insurance policies or any other financial investments maintained by them or any other wealth acquired, as on date, the sole nominee would always be Ronnith Nandy. Any kind of investments or insurance policies or any other wealth acquired by petitioner No. 1 and

petitioner No. 2 where their only son Ronnith Nandy is the nominee, must not be cancelled or defaulted or mortgaged at any point of time, as both the petitioners have given their free consent to bear the premium of the policies or investments for the better future of their only child. It is further clarified that in all investments and insurance policies or any other wealth acquired made by petitioner No. 1 and petitioner No. 2 wherein Ronnith Nandy has been made a nominee, he shall continue to remain entitled for full legitimate claim of any monetary benefit and no other legal heir's of either petitioners (if any in the future) will have any claim over those investments or insurance benefits. If at any point of time, the petitioner No. 1 demonstrates negligence or discontinues the payment of educational expenses and living expenses of the child, the petitioner No. 2 has liberty to approach Courts of law for recovery of sums due from the petitioner No. 2. Petitioner No. 1 had made arrangements to sell a Hyundai i10 car bearing registration number OR-02-AT-0207 at the request of, and with the consent of petitioner No.2. Although petitioner No. 2 was the owner of the car in law, the installments for the same had been paid by petitioner No. 1. Petitioner No. 2 having cooperated in getting the sale formalities completed and signed Forms 29 and 30 under the Motor Vehicles Act, 1988 as well as other ancillary under the Motor Vehicles Act, 1988 as well as other ancillary documents Rs. 1,50,000/- was realized from the sale, which has been paid by petitioner No. 1 through a demand draft bearing No. 876808 drawn on Karnataka Bank dated 18.03.2013, to petitioner No. 2 and she is satisfied by the same. As chance of reunion was remote they decided to dissolve the marriage with mutual consent. According to them, their consent has not been obtained by exercising fear, force, fraud, coercion or undue influence.

3. Both the petitioners in their affidavit evidence vouch-safed the contentions as made in the application. It has been stated in the application, nay, in the affidavit evidence of the parties that their marriage took place on 27.04.2001 and due to differences of opinion they have been living separately since 05.09.2010. Although their friends and relatives tried their best to

reunite them, reconciliation was not possible. A chance of reunion was remote and having no other alternative both of them decided to dissolve the marriage by mutual consent.

4. Petitioner No. 2-wife in her evidence has stated that she has no claim of any alimony for past, present and future. The petition has been filed more than one year back i.e. on 25.06.2013. The petitioners are in the prime period of their youth. Both of them stated on oath that they have been living separately since 05.09.2010 and they have not been able to live together and they have mutually agreed that their marriage should be dissolved. The Court should not stand bar to their future life. The petition of the petitioners succeeds. Hence, it is ordered;

#### ORDER

The petition for divorce by mutual consent is allowed. The decree of divorce by mutual consent is hereby passed and the marriage between petitioner No. 1 and petitioner No. 2 is declared dissolved with effect from the date of decree and Ronnith Nandy shall continue to stay permanently with the petitioner No.2.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 04<sup>th</sup> day  
of August, 2014.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioners:

P.W.1            Krishnendu Nandy

P.W.2            Tapati Nandy

List of documents admitted by petitioners:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.