

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

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

Civil Proceeding No. 351 of 2015

Sri Anil Kumar Nanda, aged about 40 years,
S/o-Sashi Bhusan Nanda,
At-Kalamada Sashan, P.O.-Padanipal,
Via-Bhunipur, P.S.-Aul, Dist- Kendrapara.
At present- Sector-3/512, Niladri Vihar, Chandrasekharpur,
P.O.-Sailashree Vihar, Bhubaneswar,
Dist-Khurda-751021.

... Petitioner

... Versus...

Smt. Smruti Mishra, aged about 35 years,
W/o-Sri Anil Kumar Nanda,
C/o-Debendra Nath Mishra,
At-Bidanasi Bandha Chhak,
P.O.-Avinab Bidanasi, Cuttack-753014, And
Clean Pest India, 66, Koel Nagar, Rourkela, Sundargarh,
And Chandi Pest Control, Bidanasi Bandha Chhak,
Near Hanuman Temple, Bidanasi, Cuttack-753014.

... Respondent

Date of Argument : 20.01.2016

Date of Judgment : 30.01.2016

J U D G M E N T

The petitioner-husband has filed a petition U/s. 13 (I) (i-a) (i-b) of 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 as per Hindu Rites and Customs at Cuttack on 21.05.2014 and their marriage has not been consummated due to willful refusal of the respondent. It is averred by the petitioner that after marriage both of them resided together at Niladri Vihar, Bhubaneswar. According to the petitioner soon after the marriage, the

respondent started ill-treating and abusing him, his parents and other relatives. On 26.05.2014 the respondent told his sister “Sabubele kana douducha athaku nijaghara kama bujhuna” and hearing such, his sister stopped coming to his house. It is averred by the petitioner that on the same day when his nephew was eating dry Amul power on their bed, some of dust of Amul power fell down on the bed cover for which the respondent threw the bed cover to his face and abused him by saying “Choto loko gudaka” and thereafter forced him to wash that bed cover for which he has done it. The petitioner during her stay in his house talked loudly and went to the outside of the house frequently. On 28.05.2014 i.e. the first Savitri Amabasya of the respondent when his mother told her to put vermilion, new bangles, sankha and rings in her finger and in her leg, the respondent replied that her name is Smruti and another name is Kali and she is not Savitri and also told her mother to prove that she was Savitri and hearing such her mother became dumb founded. The respondent also talked together for hours in the late hour of night in her phone and woke up at about 8 A.M. and when he asked the respondent to leave the bed early, the respondent replied that it is her style and if he further interfered, he has to face dire consequences. The respondent also insisted him for living separately from his other family members at Cuttack. It is further averred by him that on 04.06.2014 at about 8.30 A.M. the respondent without any rhyme or reason forced him to leave her at Cuttack and when he requested her to wait for few days, the respondent threatened to commit suicide. On 06.06.2014 at about 7 to 7.10 P.M. the respondent again told him to go to Cuttack otherwise she will commit suicide and also tried commit suicide with a saree on the ceiling fan. The petitioner has further averred that the respondent during her stay did not perform her marital obligations and underestimated him and his family members. It is also averred by the petitioner that the respondent is an adamant and arrogant lady who did not care for him and his family members. The respondent during her stay avoided for conjugal relationship for which he suffered mental agony. It is further averred by him that the respondent told him that she was not willing to marry him but her parents and family members forced her to marry him. On 07.06.2014 the respondent left his house along

with all the gold ornaments presented by his side and other costly articles presented to her at the time of her marriage. The petitioner further averred in his petition that he made several attempts to contact the respondent over mobile phone but the respondent avoided it. Thereafter he intimated the said facts to her father but her father replied that she was with them till 08.06.2014 and on the same day she left for Kotak Mahindra Bank and did not return thereafter. On 18.06.2014 he reported the matter to the IIC Bidanasi Police Station and during enquiry the respondent was traced out on 05.07.2014 and the respondent voluntarily given in writing that she is now residing at 66, Koel Nagar, Rourkela and serving at Clean Pest India. She has also stated before police that she was not missing at any point of time and being a major she is residing on the above mentioned address at her sweet will and further she will not return to her father and her husband. She has further stated that she will not claim anything both from her father and husband. When he requested the respondent to join his company, she bluntly refused to return his company. Since the torture and cruelty by the respondent became in-tolerable 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 questions are require to be adjudicated:-

- (i) Whether, there exists any desertion and cruelty on the part of the respondent to allow the petition for divorce?
- (ii) Whether the petitioner is entitled for the alimony either permanent or monthly if point No. 1 is answered in favour of the petitioner?

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

6. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 13 (i) (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-20 of his petition has stated that the respondent

deserted her since 07.06.2014. The petition of divorce in this case is presented in the Court on 19.06.2015. Thus, it is clearly established that the petition has been filed before completion of two years from the date as alleged by the petitioner. Therefore, the ground of desertion held not established by the petitioner.

7. The residue point that remains to be discussed is cruelty. Not performing the marital obligations, avoiding for cohabitation, under estimating the petitioner and his family members and frequently leaving the matrimonial house without the consent of the petitioner and his family members are the circumstances construing mental cruelty and therefore, the petitioner is entitled to the relief claimed in the petition. Hence, it is ordered;

O R D E R

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 30th day of January, 2016.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Sri Anil Kumar Nanda

Witnesses examined for the Opp. Party:

None

List of documents by petitioner:

Nil

List of documents by Opp. Party:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.