

IN THE COURT OF JUDGE, FAMILY COURT, BHUBANESWAR.

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

Civil Proceeding No. 373 of 2014  
(Under Section 28 of Special Marriage Act, 1954)

Saswati Ojha, aged about 35 years,  
W/o-Kamakshya Prasad Tripathy,  
D/o-Late Sahadev Ojha,  
At Plot No. 217, Unit-9(F), Bayababa Lane,  
P.O./P.S.-Saheednagar, Bhubaneswar,  
Dist-Khurda.

..... Petitioner No. 1

AND

Kamakshya Prasad Tripathy, aged about 34 years,  
S/o-Ramesh Chandra Tripathy,  
At-Bentapur, P.O.-Kangla,  
P.S./Dist.-Angul

..... Petitioner No. 2

Date of Second Motion : 10.10.2015

Date of Judgment : 10.10.2015

J U D G M E N T

The petitioners have filed this application Under Section 28 of Special Marriage Act, 1954 (in short the Act of 1954) for divorce with mutual consent.

2. The facts of the case of the petitioners are that their marriage was solemnized before the Marriage Officer, Khurda at Bhubaneswar on 15.02.2008 vide Marriage Certificate No. 306 of dated 15.05.2008 (Ext.1) and they have no issue out of their wedlock. Due to indelible temperament, and mental incompatibility and difference of opinion they have been living separately since 30.01.2013. The petition was presented before this Court on 26.08.2014. Therefore, they have been living separately more than one year. The petition was filed more than six months i.e. on 26.08.2014. It is averred by the parties that as per settlement between them petitioner No.2 agreed to pay permanent alimony of Rs. 5,00,000/- to the petitioner No.1 in two

installments and accordingly an amount of Rs. 3,00,000/- has been given to the petitioner vide D.D. No. 030402 dated 26.08.2014 at the time of filing of the petition and the rest amount of Rs. 2,00,000/- shall be paid on the date of judgment. It is further averred that several attempts have been made by the family members, friends and well wishers for their reunion but in vain. A chance of reunion was remote and having no other alternative both of them decided to dissolve the marriage by mutual consent and their consent is free consent for dissolution of the marriage.

3. Both the petitioners were examined on oath as P.Ws. 1 and 2 respectively. They have stated unanimously that their marriage was solemnized before the Marriage Officer, Khurda at Bhubaneswar on 15.02.2008 vide Marriage Certificate No. 306 dated 15.05.2008 (Ext.1). Due to indelible temperament, and mental incompatibility and difference of opinion they have been living separately since 30.01.2013. Although their friends and relatives tried their best to reunite them, reconciliation was not possible. The chance of reunion is remote and having no other alternative both of them decided to dissolve the marriage by mutual consent and their consent is free from any coercion and therefore, their consent is free consent.

4. Petitioner No. 1-wife in her evidence has stated that she has received Rs. 2,00,000/- in shape of cash from petitioner No.2 and she has no claim of any alimony for past, present and future for herself. In view of above admission by the petitioner No. 2, she is not entitled to get any alimony from petitioner No.1. The petition was filed on 26.08.2014. The petitioners are in the prime period of their youth. Both of them stated on oath that they have been living separately since last one year 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 as a 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. A decree of divorce is passed and the marriage between the petitioner No. 1 and petitioner No. 2 is hereby declared dissolved with effect from the date of decree

and the Marriage Certificate bearing No. 306 dated 15.05.2008 be cancelled.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 10<sup>th</sup> day of  
October, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioners:

P.W.1 Smt. Saswati Ojha

P.W.2 Sri Kamakshya Prasad Tripathy

List of documents admitted by petitioners:

Ext. 1 Marriage Certificate bearing No. 306 dated 15.05.2008

JUDGE, FAMILY COURT,  
BHUBANESWAR.