

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

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

Civil Proceeding No. 39 of 2013

Prabodha Kumar Panda, aged about 50 years,
S/o- Late Banamali Panda,
Vill/P.O.- Nuasasan, P.S.-Pipilli,
Dist-Puri.

... Petitioner

... Versus...

Smt. Manorama Mohapatra @ Panda, aged about 38 years,
W/o-Prabodha Kumar Panda,
D/o- Late Nisakar Mohapatra,
At/P.O-Mendhasal, P.S.-Chandaka,
Dist-Khurda,
At present-Times Gurukul Hostel Caretaker,
Malipada, Dist-Khurda.

... Respondent

Date of argument : 06.08.2014

Date of order : 08.08.2014

O R D E R

This order arises out of a petition u/s. 13 (1) of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of marriage of the petitioner with the respondent on the grounds of desertion and cruelty.

2. The fact of the case of the petitioner are that:-

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites at Mendhasal, under police station Chandaka, Bhubaneswar on 08.03.1995 and out of their wedlock one daughter was born

on 18.04.1996 and one son on 12.12.1999 respectively. He has averred that he is running a tea stall at Bhubaneswar and out of that he is maintaining his family. He has further averred that differences arose between them which could not be resolved. It is further averred that several attempts have been made by the family members, friends and well wishers for their reunion but in vain and finally after serious quarrel the respondent left the house of the petitioner since 25.10.2010 according to her sweet will. Since then the petitioner tried his best for their reunion but the respondent did not want to join his company and since then they have no physical relationship. He has further averred that the respondent is working as caretaker of Times Gurukul, Malipada, Bhubaneswar. He has further averred that the respondent without rhyme and reason deserted him since 25.10.2010. Since the torture and cruelty by the respondent has become in-tolerable she has filed this proceeding seeking a decree of divorce.

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

4. The question that requires to be adjudicated is whether, there exists any desertion and cruelty on the part of the respondent to allow the petition for divorce?

5. The petitioner in order to prove his case he, himself, has been examined P.W. 1.

6. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 13(1) of the Hindu Marriage Act, 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 8 of his petition has stated that the respondent deserted him since 25.10.2010. The petition of divorce in this case is presented in the Court on 18.01.2013. The evidence of the petitioner remains unchallenged and there is no reason to disbelieve the unchallenged testimony of the petitioner. Thus, it is clearly established that the petition has been filed after completion of two years from the date as alleged by the petitioner. From the aforesaid tenor of the evidence, it is as much as clear as noon day that there has been total liquidation of obligation of marriage between the parties since 25.10.2010, meaning thereby that intentional permanent forsaking and abandonment of one spouse by the other without the others consent and without reasonable cause also meaning not permitting or allowing or facilitating cohabitation between the spouses. The respondent without any rhyme and reason deserted the petitioner. This conduct of the parties is a continuous one for last three years. There is also blick chance of their reunion. Therefore, it is a fit case to snap out the marital relation between parties by passing a decree of divorce. In other words the petitioner could establish the ground of desertion.

7. The residue point that remains to be discussed is cruelty. The petitioner in para-9 of his petition has stated that the respondent subjected him to cruelty and did not cooperate for physical relationship decasualization amounts to mental cruelty. Therefore, the petitioner could successfully establish the ground of cruelty which is also one of the ingredients u/s. 13 (1) of the Act for granting a decree of divorce. 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 8th day of August, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Prabodha Kumar Panda

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,
BHUBANESWAR.