

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

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

Civil Proceeding No. 407 of 2011

Krishna Chandra Rath, aged about 45 years,
S/o-Late- Kashinath Rath,
At-Dasbidyadharpur,
P.O.-Bhimpur, Dist-Puri,
At present:- Lecturer in (P.G.) Deptt. of Geography,
Utkal University, Vani Vihar,
Bhubaneswar-4, Dist-Khurda.

... Petitioner

... Versus...

Mrs. Jyotrimayee Acharya, aged about 45 years,
D/o- Mr. Sachidananda Acharya,
At/P.O.- Krushnachandrapur,
Via- Balimi, Dist-Dhenkanal, Pin-751020
At present Department of Geography,
Norwegian in University of Science & Technology (N.U.S.T),
Dragvoll, Norway.

... Respondent

Date of argument : 16.07.2014

Date of order : 31.07.2014

J U D G M E N T

This order arises out of a petition u/s. 13 of the Hindu Marriage 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 facts of the case of the petitioner are that he married to the respondent as per Hindu rites and customs at Sailashree Vihar in Bhubaneswar on 24.04.1993. At the time of marriage the petitioner was working as the Research Associate in Asian Institute of Technology, Bangkok (Thailand) and the respondent was working as a lecturer in Janata College,

Satamile, Hindol in the district of Dhenkanal. The petitioner has averred that after marriage at his efforts the respondent was offered a seat to study in the Asian Institute of Technology, Bangkok (Thailand) and the respondent after availing leave went to Bangkok accompanied with the petitioner and the respondent was also conceived there. In the first week of August, 1995 the respondent returned Odisha and stayed with her elder sister at Talcher, where she gave birth a male child on October, 1995 and thereafter she went to her parental home and stayed upto the end of February, 1996 and after study and maternity leave the respondent joined in the college at Satamile, Hindol. He has further averred that he returned from Bangkok in the last week of January, 1996 and joined as Consultant (Micro Planning in Centre of Youth and Social Development (CYSD) on June, 1996 and continued till September, 2006 and at that time he was putting himself in a rented house in Qr. No. 21/2, MIG-II, Chandrasekharapur, Housing Board Colony till October, 1997 and requested the respondent to join with him leaving her job. The respondent was reluctant to quit the job and stay with the petitioner at Bhubaneswar. In the meantime, petitioner joined as Research Officer in Natural Disaster Management Cell of Gopabandhu Academy of Administration, Govt. of Odisha, Bhubaneswar in September, 1996 and continued till 1997 and was allotted with a quarters in the said campus. The petitioner averred that the respondent was adamant and quarrelsome lady and she was insulting and assaulting the petitioner in presence of students and colleagues for which the petitioner suffers mental agony. In the month of March, 1998, the respondent left for Norway for research and studied there till 15.07.1998. Again she left for Norway in January, 1999. The respondent while staying with the petitioner abused him in obscene language and the petitioner was mentally tortured by the cruel behaviour of the respondent. She did not allow the child to meet him at Bhubaneswar. The petitioner further averred that their marriage has been irretrievable broken down and there is no prospect of their reunion and hence, submitted to dissolve the marriage by passing a decree of divorce.

3. The respondent has filed written statement but subsequently she did not participate in the proceeding. Therefore, she has been set ex-parte and ex-parte hearing was taken up.

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 divorce petition?

5. The petitioner in order to prove his case he, himself, has been examined P.W. 1 and relied on some documents i.e. Ext. 1 is the information obtained under R.T.I. Act from B.D.A., Ext. 2 is the service information of the respondent obtained through Internet, Ext. 3 is the return of application of the petitioner obtained through R.T.I. Act and Ext. 4 is the certified copy of the order passed in I.A. No. 410 of 2003.

6. The petitioner in his affidavit evidence stated that he married to the respondent on 24.04.1993 and out of their wedlock a male child was born in the month of October 1995. He has corroborated the facts stated in his original application. The petitioner has stated that the respondent without rhyme and reason left the matrimonial house and voluntarily deserted him. P.W. 1 further stated that the respondent was misbehaving and torturing him both mentally and physically and she did not allow the child to stay with him. The behaviour of the respondent towards the petitioner is cruel and unbearable. The respondent assaulted the petitioner and his mother and was reluctant to live with the petitioner lead a happy conjugal life. P.W. 1 further stated that their marriage has been irreparable broken down as they have no physical relationship since 1999. His aforesaid statements have not been challenged by the respondent in any manner. Therefore, it can safely be said that the respondent without any reasonable cause deserted the petitioner voluntarily. From the aforesaid tenor of the evidence, it is as much clear as a noon day that there has been total liquidation of obligation of marriage between the parties since the year 1999, meaning thereby that intentional permanent forshaking 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. This conduct of the parties is a continuous one for last fifteen years. There is also blink chance of their reunion. Therefore, it is a fit case to snap out the marital relation between parties by passing 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 31th day of July, 2014.

JUDGE, FAMILY COURT,
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Dr. Krushna Chandra Rath

Witnesses examined for the respondent:

None

List of documents by petitioner:

Ext. 1 Information obtained under R.T.I. Act from BDA

Ext.2 Service information of the respondent obtained through Internet

Ext. 3 Return of application of the petitioner obtained through R.T.I. Act.

Ext. 4 Certified copy of the order passed in I.A. No. 410/2003.

List of documents by respondent:

Nil

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BHUBANESWAR.

