

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

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

Civil Proceeding No. 460 of 2010

Rama Chandra Sahoo, aged about 38 years,  
S/o.- Late Braja Kishore Sahoo,  
AT-House No. L/715, Phase-II,  
Dumuduma Housing Board Colony,  
P.S.-Khandagiri, Bhubaneswar,  
Dist-Khurda.

... Petitioner

... Versus...

Smt. Ranjan Moharana, aged about 35 years,  
W/o. Rama Chandra Sahoo,  
D/o & C/o-Kishore Chandra Moharana,  
At-House No. L/760, Phase-II,  
Dumuduma Housing Board Colony,  
P.S.-Khandagiri, Bhubaneswar,  
Dist-Khurda.

... Respondent

Date of Argument : 03.01.2015

Date of Judgment: 12.01.2015

J U D G M E N T

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 facts of the case of the petitioner are as follows:-

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites in Carveview Resort, Khandagiri, Bhubaneswar on 04.03.2003. According to the petitioner, the marriage was a dowry less marriage. It is the further case of the petitioner that the respondent is

working as Accountant in the Head Office of CESU at Bhubaneswar since the year 2002 and is getting a handsome salary whereas he was working as Jr. Accountant in WESCO at Bhawanipatna. It is further averred by the petitioner that all his brother have partitioned their joint family properties mutually and are residing separately in separate mess due to the misbehavior, torture, high handedness and threatening of the respondent. His younger brother left their parental home and is residing separately in a separate mess and a deed of agreement was executed between his mother, petitioner and his younger brother on 25.06.2009. The respondent and her family members are very adamant, egoistic and litigants and the respondent during her stay did not do any household work, did not cooperate him and avoided for cohabitation. She during her stay underestimated, misbehaved him as well as his family members. She showed her unwillingness to reside in her matrimonial home. After marriage, the respondent stayed continuously for a period one of month in his house. The respondent also demolished and destroyed the walls, doors and windows, broken the utensils and household articles of his house. On 11.11.2009, the respondent, her father and brother assaulted him and also abused him in filthy languages. The respondent also pelting stones at his mother for which she sustained bleeding injuries. The respondent during her stay in his house stated before him that her marriage was solemnized against her will. The respondent also threatened to file false dowry case against him and after one month of marriage, when she had gone to her parental home had taken all her gold, silver ornaments, wearing apparels, utensils, gift and other articles. Several attempts have been made to settle the dispute but all were in vain. When the torture and cruelty became unbearable, his mother lodged complaints in different forums but the respondent did not appear. Since 06.04.2003 the respondent has been residing in her parental home. It is further averred by the petitioner that they have no physical relation more than two years. Since the torture and cruelty by the respondent has become intolerable and as the respondent debarred the petitioner from any marital relationship, he 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 as P.W.1 who supported the averments made in the petition. The petitioner sought divorce on the grounds of respondent's desertion and cruelty. It is needless to say Section 13 1 (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-18 of his petition has stated that the respondent deserted her since 06.04.2003. The petition of divorce in this case is presented in the Court on 27.11.2009. Thus, it is clearly established that the petition has been filed after completion of more than 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 06.04.2003, 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 or reason deserted the petitioner and subjected her to cruelty. This conduct of the parties is a continuous one for last several 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. In other words the petitioner could establish the ground of desertion.

6. The residue point that remains to be discussed is cruelty. Avoiding for consummation of marriage, abusing and assaulting with the help of brother and father in public, also assaulting the petitioner and his mother, spell cruel conduct of the respondent towards the petitioner. Therefore, the petitioner could successfully establish the ground of cruelty which is also one of the

ingredients u/s. 13 (1) (i-a) 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 12<sup>th</sup> day of January, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Rama Chandra Sahoo

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.