

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

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

Civil Proceeding No. 516 of 2014

Ali Rizwan, aged about 39 years,
S/o- Quarban Alli,
At-Begunia, P.O.-Jadupur,
P.S.-Khandagiri, Dist-Khurda.

... Petitioner

... Versus...

Afrine Fatimah, aged about 26 years,
W/o- Md. Kamran Khan,
D/o-Alli Rizwan,
At-Islampur, P.O./P.S.-Korai, Dist-Jajpur.

... Respondent

Date of argument : 21.01.2016

Date of Judgment : 30.01.2016

J U D G M E N T

The petitioner has filed a petition u/s. 281 of Mahemmedan Law with prayer for restitution of her conjugal rights with the respondent.

2. The fact of the case of the petitioner are as follows:-

The marriage of the petitioner with respondent was solemnized as per Muslim Customs and rites in Niladri Vihari Kalyan Mandap under Chandrasekharpur Police Station, Bhubaneswar on 07.06.2013. According to the petitioner, they led a happy matrimonial life for three months and thereafter, the respondent behaved in a very rude manner to him and his family members with a view to live separately from his other family members. The respondent also underestimated him and his family members as she hails from an affluent family. On 22.06.2014 the respondent without any rhyme or reason voluntarily went to her parental home. Thereafter several attempts

have been made from his side to bring her back but all were in vain. Since the respondent without any rhyme or reason deserted the petitioner and withdrew herself from the society of the petitioner, he has filed this present proceeding for restitution of his conjugal right with the respondent.

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

4. The following points are to be determined for adjudication of the case:

(i) Whether the respondent is the legally married wife of the petitioner?

(ii) Whether the respondent without any rhyme or reason deserted the petitioner and withdrew herself from the society of the petitioner and avoided for any conjugal relationship?

(iii) Whether the petitioner is entitled for restitution of conjugal rights as claimed for?

5. The petitioner in order to prove his case he, himself, has been examined as P.W.1. P.W.1 in his evidence has supported the averments made in his petition. P.W.1 has stated that his marriage with the respondent was solemnized according to Muslim rites and customs in Niladri Vihari Kalyan Mandap under Chandrasekharpur Police Station, Bhubaneswar on 07.06.2013. After marriage, they led happy conjugal life for three months and thereafter the respondent behaved in a very rude manner to him and his family members with a view to live separately from his other family members. The respondent also underestimated him and his family members as she hails from an affluent family. On 22.06.2014 the respondent without any rhyme or reason voluntarily went to her parental home. He has further stated that several attempts have been made from his side for restitution of their marital relationship, but the respondent and his family members did not cooperate, for which, the petitioner knocked at the door of the court for restitution of his conjugal rights. The above evidence of the petitioner remains unchallenged. Therefore, there is no reason to disbelieve his testimony.

6. From the above evidence of P.W.1, it is well forthcoming that, the respondent is his legally married wife and after marriage, they led their happy

conjugal life for three months and thereafter, the respondent without any rhyme or reason withdrew herself from the society of the petitioner on some pretext and she avoided for any relationship with the petitioner. The respondent without any rhyme or reason neglected the petitioner and did not take any steps for consummation of their marriage. It is the respondent, who is the author of the entire matrimonial dispute and their marriage is still subsistence. Therefore, the petitioner is entitled for restitution of conjugal rights as claimed for. Hence, ordered:

O R D E R

The petition filed by the petitioner for restitution of conjugal rights is allowed ex-parte against the respondent. A decree of restitution of conjugal rights is hereby passed in favour of the petitioner. The respondent is hereby directed to join with the petitioner in her matrimonial home within fifteen days from the date of this order. Any deviation to comply the order of the Court, the petitioner is at liberty to take further action through due process of law.

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Dictated, corrected by me and is pronounced on this the 30th day of January, 2016.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Ali Rizwan

Witnesses examined for the respondent:

None

List of documents by petitioner:

Ext. 1 Marriage Certificate

Ext. 2 Xerox copy of the decision of Panchyat

List of documents by respondent:

Nil

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