

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

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

Civil Proceeding No. 550 of 2013

Sanjay Kumar Tripathy, aged about 32 years,
S/o-Gopinath Tripathy,
Vill.-Srirampur, P.O.-Narisho, P.S.-Balipatana,
Dist-Khurda.

... Petitioner

... Versus...

Umarani Dash, aged about 30 years,
W/o-Sanjay Kumar Tripathy,
At-Srirampur, P.O.-Narisho, P.S.-Balipatana,
Dist-Khurda.
At present- D/o-Late-Jayakrushna Dash,
At-Kahala Ismailpur, P.O.-Kahala, P.S.-Kakatpur,
Dist-Puri, Pin-752108

... Respondent

Date of Argument : 05.10.2015

Date of Judgment: 07.10.2015

J U D G M E N T

The petitioner-husband, Sanjay Kumar Tripathy, has filed this application under Section 9 of the Hindu Marriage Act, 1955 (in short the Act, 1955) with a prayer for restitution of his conjugal rights with the respondent-wife, Umarani Dash.

2. The facts of the case of the petitioner are that he married to the respondent as per Hindu custom and rites in village Kahal Ismailpur i.e. the village of the respondent on 29.05.2010 and out of their wedlock one female child namely Saismuti Tripathy was born in Seva Nursing Home, Gop on 27.09.2011. It is the case of the petitioner that after four days of marriage, the respondent got a job of Anganwadi worker at village-Raghunathpur. It is alleged by the petitioner that the respondent during her stay in his house

insisted him to stay in her parental home and when he denied for the same, she started quarreling with him and his family members. It is further alleged by the petitioner that the respondent at the instigation of her mother, brother and sister Kumudini Dash and her husband is now residing in her parental home and is not returning to his company. On 16.01.2013 the respondent without any rhyme or reason left his house and went to her parental home along with the minor daughter with her elder sister and the husband of her elder sister on the plea to attend the examination and since then she has been residing there. On 04.10.2013 i.e. the birth day ceremony of the daughter he went to the parental home of the respondent to bring her back but the respondent denied it and she has also refused to receive the dress of the daughter. Thereafter several attempts have been made from his side to bring her back but all were in vain and hence, the petition.

3. The respondent did not contest the proceeding hence, she has been set ex-parte and ex-parte hearing has been taken up.

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 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 and relied on document i.e. Ext. 1 is the return of notice for restitution of conjugal rights. 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 in village Kahal Ismailpur i.e. the village of the respondent on 29.05.2010 and out of their wedlock one female child namely Saismuti Tripathy was born on 27.09.2011 in Seva Nursing Home, Gop on 27.09.2011 . Therefore, it is established that the respondent is the legally wedded wife of the petitioner and out of their wedlock one daughter namely Saismuti Tripathy was born on 27.09.2011.

6. The petitioner while being examined as P.W. 1 has stated that the respondent has deserted him without any rhyme or reason on 16.01.2013 and thereafter despite his sincere efforts the respondent did not join with his company for continuation of their marital relationship. Rather, on some pretext or other 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. 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 company of 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 7th day of October, 2015.

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Witnesses examined for the petitioner:

P.W.1 Sanjay Kumar Tripathy

Witnesses examined for the respondent:

None

List of documents by petitioner:

Ext. 1 Return of notice for restitution of conjugal rights.

List of documents by respondent:

Nil

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