

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

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

Civil Proceeding No. 562 of 2014

Husne Ara Nisha, aged about 30 years,  
W/o-Hakim Khan  
D/o-Sadakat Ahemad Khan,  
Medical Colony, Keranga, P.O./P.S./Dist-Khurda.  
At present Plot No. S-8/44, LIG, PH-I, Chandrasekharpur BDA Colony,  
P.S.-Chandrasekharpur, Dist-Khurda.

... Petitioner

... Versus...

Hakim Khan, aged about 40 years,  
S/o-Ahemad Khan,  
At-Masi Nagar, Keranga, P.O./P.S./Dist-Khurda.  
At present LB-355, OSHB Colony, Bhimtangi, PH-II,  
Airfiled, Bhubaneswar, Dist-Khurda.

... Respondent

Date of Argument : 09.11.2015

Date of Judgment : 18.11.2015

J U D G M E N T

The petitioner- wife sought a decree of nullity of marriage U/s-24 of the Special Marriage Act, 1954 (in short, the Act 1954) read with Section 25 of the Act of 1954 against the respondent-husband on the grounds of her consent was obtained by practicing fraud and non consummation of the marriage.

2. The facts of the case of the petitioner are that in the month of December, 2013 the uncle of the respondent came to her parental home and gave her marriage proposal with the respondent to her father standing that the respondent is unmarried. Her father assured him that he will give marriage of the petitioner with the respondent after thorough enquiry. It is further averred by her that before finalization of the marriage, the respondent used to visit her house frequently and forced her father for settlement of the

marriage immediately in order to enable him to go to abroad for which her father could not get any chance to know about the respondent. It is the case of the petitioner that in the month of February, 2014 the respondent came to her house and forced her to sign on plain papers on the plea that he will prepare her Passport and VISA to go to abroad with him after marriage and on being forced by the respondent she has signed on those papers. Some days thereafter, the respondent told her father to come to Kalpana Square along with her for some urgent work and accordingly both of them came there and the respondent took them to the office of Sub-Registrar, Bhubaneswar and forced them to sign on some documents and registers and on good faith both of them signed thereon. Some days thereafter, the respondent over phone forced her to come to his house. The respondent has also stated that he has already married the petitioner vide Marriage Certificate bearing No. 264 of 2014 on 14.03.2014 before Marriage Officer, Bhubaneswar. He has also threatened her and her father for dire consequences. The respondent has also demanded dowry of Rs. 3,00,000/- from her father over phone and non fulfillment thereof threatened for dire consequences. It is further averred by her that on enquiry by her father he came to know that the respondent has got married to one Salma Begu daughter of Samur Khan of village Keranga under Khurda police station on 16.01.2006 according to Mohamedian law and due to dowry torture both physically and mentally by the respondent, she had lodged an FIR before Khurda Police Station vide P.S. Case No. 172 dated 15.05.2006 and the said marriage is still force as the respondent has not obtained any decree of divorce from any competent court before preparation of marriage certificate. It is further averred by her that after marriage both of them resided separately in their respective houses. It is further averred by her that their marriage has not been consummated as both of them resided separately soon after the marriage in their respective houses. Hence, the petitioner filed this case to declare the marriage as null and void.

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

4. The following points are formulated for determination of the case.

- (i) Whether the consent of the petitioner to the marriage was obtained by practicing fraud and coercion?
- (ii) Whether the marriage was not consummated due to willful refusal of the respondent?

5. The petitioner in order to prove her case she, herself, has been examined as P.W.1 and relied on one document i.e. the Marriage Certificate bearing No. 264 of 2014. The petitioner while being examined as P.W. 1 has supported the averments made in the petition. From her unchallenged testimony, it is established that in the month of February, 2014, the respondent on the plea of preparation of Passport and VISA for going abroad of the petitioner after marriage, obtained her signatures on plain papers by force and subsequently took them to Sub-Registrar office, Bhubaneswar and forced them to sign on some documents and registers. Finding no other alternative both of them signed there. She has further stated that some days thereafter, the respondent over phone demanded dowry of Rs. 3,00,000/- from her father and non fulfillment thereof subjected to face dire consequence. The petitioner has also stated that while preparing the marriage certificate his earlier marriage was still in force. She has further stated that they have not resided together as husband and wife and their marriage has not been consummated. Therefore, the petitioner could establish the ground U/s. 25 (i) and (iii) of the Special Marriage Act, 1954 and as such the petitioner is entitled to the relief claimed in her petition. Hence, ordered;

ORDER

The petition of the petitioner is allowed ex-parte in favour of the petitioner without any cost. A decree of nullity by annulling the marriage between the petitioner and the respondent is passed and the marriage certificate bearing No. 264/2014 is hereby cancelled.

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BHUBANESWAR

Dictated, corrected by me and is pronounced on this the 18<sup>th</sup> day of November, 2015.

JUDGE, FAMILY COURT,  
BHUBANESWAR

Witnesses examined for the petitioner:

P.W.1        Husne Ara Nisa

Witnesses examined for the respondent:

None

List of documents by petitioner:

Ext.1        Marriage Certificate baring No. 264 of 2014

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR