

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

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

Civil Proceeding No. 593 of 2011

Bharati Behera, aged about 30 years,
W/o- Dr. Goutambudha Sitaram,
D/o- Krishna Behera,
Resident of Railway Colony,
Qr. No. Type-II/E/10/1,
At/P.O.-Mancheswar, Dist-Khurda.

... Petitioner

... Versus...

Goutambudha Sitaram, aged about 33 years,
S/o-Fakir Charan Sitaram
At present resides at- working as
Asst. Professor/Controller
of Examination Department (HRM)
Technia College of Management and Technology,
Indraprastha University, New Delhi
Permanent address- At/P.O.- Kakhadi,
P.S.-Choudwar, Dist-Cuttack.

... Respondent

Date of argument : 11.08.2014

Date of order : 12.08.2014

ORDER

The petitioner has files this application Under Sec.9 of Hindu Marriage Act with prayer for restitution of her conjugal rights.

2. The case of the petitioner is that she married to the respondent at Upendra Bhanja Institute, Mancheswar Railway Campus, Bhubaneswar as per Hindu rites and customs on 22.2.2010 and their marriage was an arranged marriage. At the time of her marriage, the parents of the respondent has demanded Rs.5 Lakhs, 200 grams of gold ornaments and other valuable articles, but at the time of marriage, the father of the respondent has

demanded another Rs.2 Lakhs for advance study of the respondent. It is further averred that before marriage, her father had paid Rs.5 Lakhs towards dowry. It is further averred that after marriage, both the parties lived together and led their happy conjugal life and consummated their marriage only for ten days. After ten days of marriage, the respondent had further demanded Rs.2 Lakhs in the house of the petitioner. According to the petitioner, one Samir Sethi who is one of relatives of the respondent was always instructing to the respondent to be remain separate from petitioner through a divorce. Under the instruction of said Samir Sethi and other family members, the respondent went back to his place of work to Delhi for his service and remained there silently till today. While staying in her matrimonial house, the petitioner has performed her matrimonial obligation successfully, but the respondent and his family members tortured her both mentally and physically. The respondent and his parents did not inform or invite the petitioner in any of their family and social functions. During one year of her marriage, the respondent has never taken any care or responsibility as a husband to maintain the petitioner. He had also not provided food or clothes to the petitioner regularly. It is further averred that several attempts have been made for settlement of dispute, but the respondent and his family members did not cooperate. Since the respondent without any rhyme and reason deserted the petitioner, she has filed this present proceeding for restitution of conjugal right.

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 petitioner is the legally married wife of the respondent?

(ii) Whether the respondent without any rhyme and 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 her case she, herself, has been examined as P.W.1. P.W.1 in her evidence has supported the averments made in her petition. P.W.1 has stated that her marriage with the respondent was solemnized on 22.2.2010 according to Hindu rites and customs and one Samir Sethi of village Khankarpur was the mediator to their marriage. Before marriage, from said Samir Sethi, the petitioner and her parents came to know that the respondent has got M.A. (Gold Medalist) M.Phil, LL.B., MBA, Ph.D., L.t and working as Asst. Professor (HRM) in Techina College of Management & Technology, Indraprasta University, New Delhi and is drawing salary of about Rs.70,000/- per month and now he is serving as Professor at Rukminidevi College of Management, New Delhi. Showing him a high qualified person, the parents of the respondent demanded Rs.5 Lakhs, 200 grams gold ornaments and other valuable household articles and at the time of marriage, the father of the respondent had demanded another Rs.2 Lakhs towards dowry. Before marriage, her parents have paid Rs.5 Lakhs towards dowry. After marriage, they led happy conjugal life for about 10 days and thereafter the respondent and his family members on some pretext avoided the marital relationship of the parties. The respondent without any rhyme and reason deserted the petitioner and he as per instruction of one Samir Sethi neglected the petitioner. She has further stated that several attempts have been made from their side for restitution of their marital relationship, but the respondent and his family members did not cooperate. Lastly on 09.01.2011 the respondent and his father intentionally avoided the direction of Rajak Mahasangha and did not attend before it, for which, Mahasangha submitted a failure report for non-settlement of the dispute between the parties, for which, the petitioner knocked at the door of the court for restitution of their conjugal rights. The above evidence of the petitioner remains unchallenged. Therefore, there is no reason to disbelieve her testimony.

6. From the above evidence of P.W.1, it is well forthcoming that, she is the legally married wife of the respondent. After marriage, they led their happy conjugal life for ten days and thereafter, the respondent did not take any

initiative for continuation of their marital relationship. Rather, on some pretext, he avoided for any relationship with the petitioner. The respondent without any rhyme and reason neglected the petitioner and did not take any steps for consummation of their marriage. No woman will prefer to remain away from her husband, unless there is neglect from the side of her husband. 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 take the petitioner to 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 12th day of August, 2014.

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Witnesses examined for the petitioner:

P.W.1 Bharati Behera

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

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