

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

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

Civil Proceeding No. 748 of 2011

Rashmi Das, aged about 30 years,  
W/o- Arjuna Dash,  
D/o-Sadashiba Padhi  
Vill-Bodhakhandi,  
Post-Sisilo, P.S.-Balipatna,  
Dist-Khurda  
At present-C/o-mother Bishnupriya Padhi,  
At-Paika Sahi,  
Barakul, P.S.-Balugaon,  
Dist-Khurda.

... Petitioner

... Versus...

Arjuna Dash, aged about 44 years,  
S/o-Late Dibakar Das,  
Vill-Bodhakhandi,  
Post-Sisilo, P.S.-Balipatna,  
Dist-Khurda  
At present working in the office of the  
Superintendent of Archeology,  
Archeological Survey of India,  
Toshali Plaza, Satyanagar,  
Post-Saheed Nagar,  
P.S.-Kharavel Nagar,  
Dist-Khurda.

... Respondent

Date of argument : 04.08.2014

Date of order : 06.08.2014

ORDER

This order arises out of a petition u/s. 18 of the Hindu Adoption and Maintenance Act, 1956 (in short, the Act 1956) filed by the petitioner for herself against the respondent claiming a monthly maintenance of Rs. 4,000/-

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 the temple of Maa Barabhuja at Khandagiri in the month of May, 2003 and they have consummated their marriage in the resident of the respondent at Bodhakhandi and out of their wedlock one female child was born in the year 2004. She has further averred that the respondent is a feats patient and nobody was willing to marry him. Since the mother of the petitioner in acute poverty, she became willing and gave marriage to her to the respondent. She has further averred that the respondent was a daily wages worker in Archeological Department and his service was regularized in the year 2010 and now he is getting Rs. 12,000/- per month as permanent employee. It is averred that the respondent started torturing her both physically and mentally and driven out her from his rented house at Choudwar on 15.08.2010 after forcefully snatching away her daughter from her and since then she has been residing with her widow mother. The petitioner has stated that the respondent has got extra marital relationship and started residing with another lady namely Mamata. She has further averred that her mother was doing household work like cleaning utensils and etc. in various houses and earning a low amount and by which she was maintaining her family. Since the respondent having sufficient means willfully neglected and refused to maintain the petitioner, who is her legally wedded wife, the petitioner is obliged to file the present petition claiming a monthly maintenance of Rs. 4,000/- for herself from the respondent.

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

The following points are formulated to resolve the controversy:-

- (1) Whether petitioner is the legal married wife of the respondent?
- (2) Whether the petitioner has sufficient cause to live separately from the respondent?
- (3) Whether the respondent having sufficient means has neglected and refused to maintain the petitioner?
- (4) What would be the quantum of maintenance to be allowed to the

petitioner, if point No. 1 to 3 are answered in her favour?

4. The petitioner in order to prove her case she, herself, has been examined P.W. 1. The petitioner in her affidavit evidence stated that she married to the respondent in the month of May 2003 in the temple of Maa Barabhuja at Khandagiri and their marriage was consummated in the resident of the respondent at Bodhakhandi and out of their wedlock one female child was born in the year 2004. Her aforesaid statements have not been challenged. Thus, it can safely be concluded that the petitioner is the legally wedded wife of the respondent.

5. She has also stated that she was subjected to torture not only by the respondent but also by her in-laws and driven out from her matrimonial house on 15.08.2010 after forcefully snatching away the daughter from her. The petitioner has stated that the respondent started residing with another lady namely Mamata. Therefore, it can safely be concluded that the petitioner has sufficient cause to desert the company of the respondent. Being the husband it is his foremost duty to maintain his legally married wife. From the evidence of the P.W. 1 it is forthcoming that she has no independent source of income and she is fully dependent on her widow mother and the respondent having sufficient means is willfully neglecting to maintain her.

6. The next question for consideration is, whether the respondent has sufficient means and he has willfully neglected and refused to maintain the petitioner. It is stated categorically by the petitioner that the respondent is working in the Archeological Department and is getting salary of Rs. 12,000/- per month. Apart from that he has landed property at his native village whereas she is merely a housewife having no separate income and depending upon her widow mother. She has also stated that the respondent has not provided a single farthing to the petitioner since the date of her leaving at her parental home. This fact and circumstance is clearly suggesting of the facts that the respondent having sufficient means not only willfully neglected but also refused to maintain the petitioner, who has no sufficient means to support herself. Therefore, the respondent is liable to provide maintenance to the petitioner.

7. The next question for consideration is the quantum of maintenance. Considering the cost of living and other attendant circumstances, in as much as, the income of the respondent, I feel in the ends of justice and equity, a sum of Rs. 2,500/- per month would be just and proper, which according to me, would not allow the petitioner to lead a princely and luxury life and also at the same time it would not put the respondent to any vagrancy. Hence ordered;

O R D E R

The petition is allowed ex-parte in favour of the petitioner. The respondent is directed to pay a monthly maintenance of Rs. 2,500/- to the petitioner from the date of filing of application i.e. on 27.08.2011. The respondent is further directed to clear the arrear maintenance within two months hereinafter. He is also directed to pay the current monthly maintenance within the 1<sup>st</sup> week of the succeeding month. Failure to carry out the order by the respondent, the petitioner is at liberty to levy execution through due process of law.

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Dictated, corrected by me and is pronounced on this the 6<sup>th</sup> day of August, 2014.

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BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Rashmi Das

Witnesses examined for the respondent:

None

List of documents by petitioner:

Nil

List of documents by respondent:

Nil

JUDGE, FAMILY COURT,  
BHUBANESWAR.