

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

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

Civil Proceeding No. 99 of 2015

Jyoti Priyadarshini, aged about 22 years,
W/o-Santosh Kumar Swain,
D/o-Giridhari Sahoo,
of Vill.-Bagasarpur, P.O.-Chayanpal,
P.S.-Mahanga, Dist-Cuttack.
At present D-16/3, Doordarshan Colony,
P.O.-Sainik School, Bhubaneswar-5.

... Petitioner

... Versus...

Santosh Kumar Swain, aged about 26 years,
S/o-Bijaya Kumar Swain,
of Nagapur, Tirtol, P.O.-Kolar,
Dist-Jagatsinghpur.

... Respondent

Date of Argument : 05.10.2015

Date of Judgment: 06.10.2015

J U D G M E N T

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

2. The facts of the case of the petitioner are that prior to marriage both of them were acquainted to each other. According to the petitioner, the respondent insisted her for marriage to which she disagreed but when the respondent threatened to commit suicide, she agreed for the marriage and accordingly their marriage was solemnized without knowledge of her family members before Marriage Officer, Khandagiri on 14.03.2013 vide marriage certificate bearing No. 47 of 2013. 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. After marriage, she made several requests to the respondent to take her to his house but the respondent avoided it on different pleas. Some days after the respondent did not respond her calls for which she became shocked. It is further averred by her that both of them filed C.P. No. 294/12 before this Court for mutual divorce U/s. 28 of Special Marriage Act, 1954 but after admission of this case, the respondent did not appear before this court for which she has withdrawn the said case with a liberty to file this present petition. 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 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. 47 of 2013. 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 when the the respondent threatened to commit suicide, she agreed for the marriage and accordingly their marriage was solemnized before Marriage Officer, Khandagiri, Bhubaneswar without knowledge of her parents. She has further stated that the marriage has never been consummated despite her willingness for consummation of the marriage. The respondent avoided to consummate the marriage on different pleas. 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. 47/2013 is hereby cancelled.

JUDGE, FAMILY COURT,
BHUBANESWAR

Dictated, corrected by me and is pronounced on this the 6th day of October, 2015.

JUDGE, FAMILY COURT,
BHUBANESWAR

Witnesses examined for the petitioner:

P.W.1 Jyoti Priyadarshini

Witnesses examined for the respondent:

None

List of documents by petitioner:

Ext.1 Marriage Certificate baring No. 47 of 2013

List of documents by respondent:

Nil

COURT,

JUDGE, FAMILY

BHUBANESWAR