

Assam Schedule VIII. Form No. 143  
High Court Form No. (J) 13

**ORDER-SHEET FOR CIVIL COURT**

DISTRICT : SONITPUR

**IN THE COURT OF THE DISTRICT JUDGE, SONITPUR, TEZPUR**

**T.S. (M) Case No. 101 of 2019**

**Sri Gobinda Paul**

**Vs**

**Smti Rita Paul**

Serial No. of Orders	Date	Order	Signature
	<b><u>13-12-2022</u></b>	<p>This is an application u/s 9 of Hindu Marriage Act, 1955 for restitution of conjugal rights.</p> <p>From the pleadings, it transpires that petitioner Sri Gobinda Paul and respondent Smti Rita Paul being Hindus by religion marriage between them was performed on 08-02-2012 according to Hindu Rites and Customs. Thereafter, both parties started to live together as husband and wife in house of the petitioner. Due to their wedlock they were blessed with two children one is male born on 19-04-2017 christened as Master Arnab Paul and another is female born on 31-03-2013 christened as Miss Priyangshi Paul. It is pleaded that both parties were living happily with their minor children without any altercation at any point of time. The parents of the respondent used to come to the house of the petitioner at least twice in a year and during the period of their stay, the parents instigated the respondent against the petitioner and tried to motivate her mind to be apart from the petitioner which came to the notice of the petitioner after their departure. On 18-10-2018 the father of the respondent came from Shillong to the house of the petitioner and stayed for 4 days and on 22-10-2018 Sri Raju Paul the elder brother of the respondent also came to the house of petitioner while the</p>	

petitioner was in his office and then the respondent informed the petitioner over phone that she was willing to go to Shillong to attend a marriage ceremony of a relative and she would return after 5/6 days. Hearing this, petitioner came to the house and gave ₹30,000/- to the respondent for the expenses of her and her children in Shillong. At that time, all jewellerys of the respondent were taken by the respondent saying that the same would be required for attending the marriage party. But, the respondent and the minor children did not return home so, petitioner on 28-10-2018 went to the paternal house of the respondent for taking his wife and children but, the parents of the respondent did not allow the petitioner to take back his wife and minor children. Due to not allowing the respondent to come back with the petitioner by keeping her forcefully in their home respondent sustained mental shock and ultimately she was treated in a hospital at Shillong. After getting the information from respondent, petitioner went to Shillong on 04-11-2018 to meet the respondent and his children expecting to take back the respondent with him. But, again the parents of the respondent did not allow the petitioner to take back the respondent saying that they would take back the respondent within a short time. Thereafter, the petitioner paid an amount of ₹10,000/- in the hands of the respondent to be spent for her treatment and for the children.

It is also pleaded that on 11-01-2019 the petitioner again went to Shillong for taking back the respondent and the minor children expecting that the petitioner would be able to enjoy the "Magh Bihu" with his family members but, this time also respondent was not allowed to come back with the petitioner. However, the petitioner was not informed that the respondent filed a divorce petition u/s

13(1)(i-a) of the Hindu Marriage Act, 1955 against the petitioner in the court of the Addl. Deputy Commissioner (Judicial) at Shillong, which is registered as Mat. Divorce Suit No. 42(T) of 2018.

Thereafter, on 10-03-2019 the petitioner alongwith his elder brother Sri Guru Das Paul, his wife Smti Rita Paul, Sri Gauranga Paul, another elder brother of petitioner Sri Madhab Paul, the father-in-law of Sri Gauranga Paul, Advocate of Tezpur Sri Ashim Choudhury went to the parental house of the respondent to negotiate the matter but failed due to the reluctant attitude of the parents and elder brother of the respondent. It is submitted that the petitioner is ever ready to restart their conjugal life with the respondent again and the life of the petitioner shall be fruitless without the company of the respondent and their children. In such a situation, finding no way out, petitioner filed this petition for issuance of direction / order for restitution of conjugal rights.

After filing the case, notice was issued to respondent and accordingly, respondent appeared before the court and filed her written statement stating that the averments made in the paragraph Nos. 1, 2, 3, 4, 5, 6 of the petition are true except the conjugal life between the parties was not good from the date of their marriage as the petitioner always treated the respondent with great harshness and cruelty both physically and mentally. The parents of the respondent made few customary visit at the matrimonial house of the respondent but the petitioner always misbehaved with them. The parents of the respondent never ever interfere in the married life of their daughter. On 17-10-2018 when father of the respondent visited the matrimonial house of respondent on the occasion of Durga Puja at that time the petitioner in front of his father-in-law

quarreled with the respondent and spoke the words that he would cut her into pieces and after killing her would go to jail but was luckily prevented from doing so by the interference of the father. It is also submitted that the father of the respondent visited the residence of petitioner on 17-10-2018 and not on 18-10-2018 and stayed there till 22-10-2018. During his stay, he witnessed that the petitioner used to harass the respondent both mentally and physically by using slang language and also used to assault her without any rhyme or reason. So, unable to see the inhuman treatment meted out to his daughter, the father took his daughter and grand children with him and since then, respondent and her minor children have been living separately from the petitioner at her parental house at Shillong.

It is also submitted that it was due to cruel act of the petitioner that the respondent had suffered from poor health resulting to which she sustained mental shock for which the father of the respondent took her to doctor at Ganesh Das Govt. M & C.H. Hospital, Lawmali, Shillong. The respondent is not interested to go back to the house of petitioner to start her marital life again owing to the cruelties and harassment meted out to her by the petitioner so, the respondent has already filed a divorce case in the court of Addl. Deputy Commissioner (Judicial) at Shillong, which is registered as Mat. Divorce Suit No. 42(T) of 2018. So, it is prayed by the respondent that the instant suit is liable to be dismissed imposing exemplary cost on the petitioner.

After filing the written objection, issues were framed and then on being asked, petitioner submitted evidence of 3 (three) witnesses on affidavit reiterating the same fact as has been pleaded in the petition. However, respondent

did not cross-examine the witnesses of the petitioner by appearing in the dock of the court even after having enough time to the respondent side. So, this court vide order dated 23-11-2022 proceeded the case ex-parte against the respondent.

All the aforesaid pleadings and evidence on record, it unerringly proves that the petitioner married the respondent on 08-02-2012 and after marriage respondent left her matrimonial house on 22-10-2018 and since then she has not returned to her matrimonial house in spite of several attempts by petitioner. Section 9 of the Hindu Marriage Act provides for restitution of conjugal rights which is quoted below:

*"Restitution of conjugal right.—5\*\* \* When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court, for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.*

*[Explanation.—Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.]"*

On mere perusal of Section 9 of Hindu Marriage Act, it appears that either the husband or wife may apply to the District Court for restitution of conjugal rights when either the husband or wife without reasonable excuse, withdrawn from the society of the other. Having considered the grounds stated, the court, having been satisfied on the truthfulness of the statement, can order for restitution of conjugal rights.

In the present case, from the pleadings and evidence of the petitioner, it is seen that his wife respondent

without any reasonable excuse withdrawn from his society and in spite of his best attempts she refused to come back to live with him as husband and wife. Respondent however, denied all the allegations in her written statement but did not contest the case by cross-examining the witnesses of petitioner and also by not attending the court on the date/ dates fixed to substantiate her claim. Contrary to this, from her written statement, it transpires that instead of coming back to company of her husband, the respondent wife also instituted a divorce case in the court of Addl. Deputy Commissioner (Judicial) at Shillong, which is registered as Mat. Divorce Suit No. 42(T) of 2018. Therefore, it appears that the petitioner has been able to establish before this court that there is cogent/ sufficient grounds for directing restitution of conjugal rights as the wife of the petitioner without valid and reasonable cause left his company and his attempt to bring her back also resulted in vain because of the intervention of the family members of respondent which is uncalled for and unjust. Moreover, in her written statement the respondent made some vague allegations of maltreatment, harassment and cruelty to her both mentally and physically by the petitioner without clearly specifying on which particular date and where her husband maltreated or subjected her cruelty. It appears to be a completely vague and unsubstantiated allegations not backed by credible facts. When two matured soul desires to live together, third party intervention who may be either parents of the party or any person is totally uncalled for as it has the propensity to destroy the happy conjugal life which appears to be the apparent cause in the present case as it transpires from the evidence of the petitioner side.

In view of the foregoing discussion and reasons, this court do feel that in order to save the marital life of the

petitioner and to bring harmony between the two souls, restitution of conjugal rights is for the best interest of the husband, wife and their children and society as well. Therefore, this court is convinced from all aspects that it is a fit case wherein the petitioner is entitled to the right of conjugal life with his wife.

**ORDER**

Accordingly, the prayer of the petitioner for restitution of conjugal rights with the respondent is allowed. Therefore, the respondent (wife) is directed to resume her conjugal life with the petitioner (husband) at the earliest and to live a happy conjugal life.

Prepare the decree accordingly.

The case is disposed of.

**(C.B. Gogoi)**  
**District Judge**  
Sonitpur, Tezpur