IN THE HIGH COURT OF ORISSA, CUTTACK

W.P.(C) No.27555 of 2025

Suvojit Das ..... Petitioner

-Versus-

Kajol Mishra ..... Opposite Party

Advocate for the parties

For Petitioner : Mr. A. Nayak, Advocate

For Opposite Party : Mr. A.K. Mohapatra, Advocate

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CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of hearing and Judgment: 23.12.2025

S.K. MISHRA, J.

1. The present writ petition has been preferred by the Petitioner-husband, who is the Opposite Party in C.P. No.340 of 2024, preferred by the present Opposite Party-wife before the learned Judge, Family Court, Puri under Section 13(i-a) and (i-d) of the Hindu Marriage Act, 1955 for a decree of divorce.

2. Impugned in the writ petition are the order dated 15.07.2025 so also order dated 23.08.2025 passed in C.P. No.340 of 2024 by the learned Judge, Family Court, Puri.

3. Though the Opposite Party-wife has appeared in this case, no Counter has been filed till date opposing to the prayer made in the writ petition. However, learned Counsel for the Opposite Party-wife made a submission on 17.11.2025 that the points involved in the present lis, being pure question of law, he would like to argue the matter orally instead of filing the Counter Affidavit. Hence, on consent of the learned Counsel for the parties, the matter is taken up for hearing and disposal at the stage of admission permitting the learned Counsel for the Opposite Party-wife to make oral submission, opposing to the prayer made in the writ petition.

4. Learned Counsel for the Petitioner-husband submits, though the Petitioner has challenged the order dated 15.07.2025, vide which the application of the Petitioner-husband filed under Order 1 Rule 10 C.P.C to implead one Akshay Desai as the co-respondent so also subsequent petition dated 30.07.2025 for framing additional issue stood rejected vide order dated 23.08.2025, he would like to confine his prayer with regard to the observation made vide order dated 15.07.2025 regarding alleged non-filing of written statement by the Petitioner so also rejection of his application for recasting the issues on the plea of rejection of his application filed under Order 1 Rule 10 C.P.C.

5. Learned Counsel for the Petitioner, drawing attention of this Court to the certified copy of the written statement filed on behalf of the Petitioner, who is the Respondent/Opposite Party in C.P. No.340 of 2024 further submits, the said written statement though was filed on 03.03.2025, which bears the seal of the learned Court below and also the impugned order, well reflects that on the very same date, the Petitioner also filed an application under Order 1 Rule 10 C.P.C. for impletion of party, but the order dated 03.03.2025 as at Annexure-5 does not reflect that the said written statement so also petition were filed by the Petitioner-husband on the said date. Hence, the observation made in the concluding paragraph of the first impugned order dated 15.07.2025 that the Petitioner-husband has not filed the written statement in the said case and the statutory period of limitation for filing of written statement has already been lapsed and the Respondent is debarred from filing the written statement in the said case, deserves to be set aside.

6. Similarly, drawing attention of this Court to the averments made in paragraph 9 of the written statement regarding alleged extra marital relationship of the Opposite Party-wife with one Akshay Desai, learned Counsel for the Petitioner-husband further submits, since there was a specific pleading to the said

effect in the written statement, the learned Court below was not justified to reject the application of the Petitioner-husband to recast the issues, as proposed vide petition dated 30.07.2025.

7. Per contra, learned Counsel for the Opposite Party-wife relying on the website copy of a reportable judgment of this Court dated 03.01.2024, passed by the coordinate Bench in MATA No.36 of 2023 (***Harekrushna Behera Vs. Manasi Jena***) submits, the learned Court below rightly rejected the petition of the Petitioner-husband to implead the alleged paramour of the Opposite Party-wife and there is no infirmity in the impugned order dated 15.07.2025, vide which such an application of the Petitioner-husband stood rejected. However, so far as the observation of the learned Court below regarding non-filing of the written statement and precluding the Petitioner-husband to file the written statement, learned Counsel for the Opposite Party-wife fairly concedes before this Court that such recording of the learned Court below is contrary to the records and deserves interference.

8. Accordingly, the concluding para of the impugned order dated 15.07.2025 is set aside and the learned Court below is directed to take into consideration the written statement filed by the Petitioner-husband on 03.03.2025, which is on record.

8.1 So far as second impugned order dated 23.08.2025, vide which the application preferred by the Petitioner-husband for recasting the issues stood rejected, at this stage, learned Counsel for the Opposite Party-wife submits, the Petitioner ought to have preferred a separate writ petition to challenge the said order. Since this Court has already interfered partly, so far as order dated 15.07.2025 passed by the learned Court below, the prayer to set aside the second order dated 23.08.2025 in the present writ petition is not permissible.

9. Learned Counsel for the Opposite Party-wife further submits, since it has already been ordered directing the learned Court below to accept the written statement filed by the Petitioner-husband, he may file an application for recasting the issues afresh, if he is so advised.

10. As it seems from the second impugned order dated 23.08.2025, the learned Court below rejected the application for recasting the issues solely on the ground that previous petition moved by the Petitioner-husband before the learned Court below stood rejected. That apart, there was an observation that no written statement has been filed by the Petitioner-husband. Admittedly, the issues are to be framed based on the pleadings of the parties on record. Since it has already been directed to accept

the written statement, filed on 03.03.2025, which is on record, it would be open for the Petitioner to move a fresh application before the learned Court below for recasting the issues, if he is so advised.

11. Accordingly, the writ petition stands allowed to the extent, as indicated above and disposed of.

12. At this stage, on being asked, it is submitted at the Bar that the C.P. No.340 of 2024 now stands posted to 03.01.2026 for cross-examination of P.W.1, who has already filed her affidavit evidence and has been further examined in-chief. Hence, it is made clear that, if any application is moved by the Opposite Party in C.P. No.340 of 2024, afresh for recasting the issues, learned Court below shall do well to deal with and dispose of the same and thereafter shall proceed further in the said case on merit, in accordance with law.

13. Urgent certified copy be granted as per rules.

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S.K. MISHRA, J.

Orissa High Court, Cuttack.
Dated, the 23rd December, 2025/ Kanhu

Signature Not Verified
Digitally Signed
Signed by: KANHU BEHERA
Designation: Junior Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 24-Dec-2025 18:25:44