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HIGH COURT OF CHHATTISGARH, BILASPUR

WP (227) No. 989 of 2015

1. Smt. Jasbeer Kaur Saini W/o. Gurumel Singh Saini, Aged About 50 Years R/o. Govind Nagar 9/1 City Station, Raipur, Police Station & Post Raipur, Tahsil Raipur, Civil & Revenue Disrict Raipur (Chhattisgarh)................(Plaintiff)

---- Petitioner

Versus

1. Gurumel Singh Saini S/o. Late Gurucharan Singh, Aged About 46 Years R/o. Near Farmer House Gurunanak Hall, Gurunanak Nagar, Raipur, Police Station & Post Raipur, Tahsil Raipur, Civil & Revenue District Raipur (Chhattisgarh)................(Defendant)

---- Respondent

For Petitioner : Shri Manoj Paranjape and Shri Prasoon Agrawal, Advocates

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HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI

ORDER

30/11/2015

1. Heard on admission.

2. By the instant Writ Petition (227), the petitioner has prayed that the order passed by the Family Court, Raipur (CG) vide order dated 2.11.2015 in Case No.82/2010 (Jasbeer Kaur Saini Vs. Gurumel Singh Saini) be quashed as the same is not as per compliance of the order dated 6.7.2015.

3. Learned counsel for the petitioner submits that in the impugned order dated 6.7.2015, the Court below has ordered that the non-applicant shall file a statement regarding his business, income tax returns for the years 2005-2006 till 2012-2013 of the account of Hindu Undivided Family (HUF) in which, the capital account and balance-sheet are certified by the Chartered Accountant. Court below vide order dated 2.11.2015 dismissed the prayer of the petitioner to call the Chartered Accountant and concerned officers of the Income Tax Department in evidence. The Court below has held that the non-applicant had examined the witness- Daulat Asudani, an employee of the Chartered Accountant, hence, there is no necessity to call the C.A. and concerned officers of the Income Tax Department in evidence, as the matter is pending before the Court below summarily triable, it requires disposal as early as possible. It is submitted on behalf of the petitioner that as the Court below has not complied the order dated 6.7.2015 hence the order passed on 2.11.2015 for calling the C.A. and the officers of the Income Tax Department, therefore, the petition may be admitted for consideration and after hearing on merits the instant W.P.(227) be allowed and relief as prayed for may be granted.

4. For the purposes of appreciation regarding the facts mentioned in the writ petition and the arguments made in this behalf on account of the impugned order dated 6.7.2015 and 2.11.2015 perused.

5. From perusal of order dated 6.7.2015, it shows that the Court below has directed for furnishing the copy of income tax returns for the years 2005-2006 till 2012-2013 of the HUF account and the business of the non-applicant in which the capital account and the balance sheet are certified by the C.A. On the other hand, applicant/petitioner prayed before the Court below to give direction to the non-applicant to call for the concerned officers of the Income Tax Department. The trial Court after due appreciation, held that the employee of the C.A. Daulat Asudani has been examined in detail before the Court who is an employee of the C.A., the court held that there is no necessity to call for the C.A. and concerned officer of the Income Tax Department.

6. On due consideration, it cannot be said that the Court below had not complied with the order dated 6.7.2015 while passing the order dated 2.11.2015. In my considered view, looking to the entire material available, this is not a fit case, where the petition may be admitted for consideration. I do not find any illegality or impropriety in the order dated 2.11.2015.

7. Consequently, the instant petition is dismissed at the motion stage itself.

8. No order as to cost.

Sd/

(Chandra Bhushan Bajpai)
JUDGE

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