

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**First Appeal (M) No. 22 of 2016**

Sharada Prasad Jaiswal S/o Shri Chhotelal Jaiswal, Aged About 47 years, R/o
Pandit Ravishankar Shukla Nagar, Korba, Tahsil & District- Korba (Chhattisgarh)

---- Appellant**Versus**

Smt. Usha Jaiswal D/o Shri Kunj Bihari, W/o Shri Sharada Prasad Jaiswal, Aged
About 45 years, R/o Daupara (Monika Hotel) Mungeli, Tahsil- Mungeli, District
Mungeli (Chhattisgarh)

---Respondent

For Appellant : Shri Sameer Singh, Advocate

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Navin Sinha, Chief Justice****29/01/2016**

1. I.A. No. 1 of 2016 has been filed to condone 63 days delay in preferring the appeal.
2. The present appeal assails order dated 20.10.2015 by the Family Judge, Korba in Civil Suit No.62-A of 2008 dismissing the suit for divorce filed by the Appellant against the Respondent on grounds of desertion.
3. Learned counsel for the Appellant submits that the parties were married in 1992. The Respondent deserted the Appellant without justification as far back as 1997. Despite his efforts she refused to come back to the matrimonial home. Dismissal of the suit for divorce was not justified as the Respondent could not prove that she had left the matrimonial home for any reasonable cause.

4. We have considered the submissions of the behalf of the Appellant.\
5. The Respondent took the stand that she was compelled to leave the matrimonial home because of the behaviour of the Appellant himself.
6. More importantly, we find that the specific assertion of the Respondent that the Appellant had married one Haniman Khan daughter of Habib KHan in 1997 during subsistence of the present marriage with the Respondent and sired a child from the same and that he was residing with her in the Housing Board Colony, Balco Nagar in House No. D-38 was not denied by the Appellant at all. We do not find even a whisper of a pleading in the memo of appeal also challenging the specific finding of fact arrived at by the Family Judge in this regard as having been established.
7. We therefore find no merit in the appeal. Delay is condoned. The appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE