

HIGH COURT OF CHHATTISGARH, BILASPUR

Civil Revision No.33 of 2016

1. Atiya Naj, D/o Shri Abdul Rafiq Khan, aged about 24 years, R/o Beside Aman Medical Stores, Lalita Chowk, Tatyapara, Raipur, Police Station Azad Chowk, District Raipur (CG).
2. Shri Abdul Rafiq Khan, S/o late Shri Abdul Azim, aged about 54 years, R/o Beside Aman Medical Stores, Lalita Chowk, Tatyapara, Raipur, Police Station Azad Chowk, District Raipur (CG). **---Defendants/**

---- Applicants

Versus

Samir Kuraishi, S/o Shri Abdul Kadar Kuraishi, aged about 31 years, R/o House of Rajani Light, Neharu Nagar Colony, Raipur, Police Station City Kotwali, District Raipur (CG). **--- Plaintiff/**

---- Non-applicants

For Applicants : Shri Arvind Sinha, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

26/08/2016

(1) Plaintiff/non-applicant-Samir Kuraishi filed a suit for declaration and permanent injunction that he is the husband of applicant/defendant No.1-Atiya Naj.

(2) After appreciation the applicants/defendants herein filed an application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (in short 'the CPC') on the ground that such a suit is barred by Section 7(1) of the Family Court Act, 1984.

(3) The trial Court, after hearing learned counsel for the parties, by

its impugned order dated 20.01.2016 passed in Case No.01/2015 rejected the application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 finding no merits.

(4) Against which, the civil revision has been filed by the applicants/defendants herein.

(5) Shri Arvind Sinha, learned counsel appearing for the applicants/defendants would submit that the trial Court has committed jurisdictional error in rejecting the application under Order 7 Rule 11 of CPC and therefore, the impugned order be set aside.

(6) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(7) In order to decide the issue involved, it would be appropriate to notice the explanation (b) of Section 7 of the Family Courts Act, 1984, which reads as follows:-

“7(b).... a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person.”

(8) A careful perusal of the explanation attached in the Section 7 of the Family Courts Act, 1984 would show that the family Court will have the jurisdiction to declare the matrimonial status of the person and the family Court in the suit like present can consider and declare the matrimonial status of the plaintiff under Section 7(1)(b) of Act of 1984 and as such, it cannot be held that the suit is barred by Section 7(1) of the Act of 1984. I do not find any jurisdictional error in the impugned order warranting interference by this Court in exercise of revisional

jurisdiction

(9) Accordingly, the civil revision being without substance is liable to be and is hereby dismissed at admission stage. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

L/-