

HIGH COURT OF CHHATTISGARH, BILASPUR
WP227 No. 131 of 2016

1. Smt. Preeti Khare D/o Shri Gendram Khare, aged about 29 years, Caste Suryavanshi, R/o LIG, Quarter No.234, Shivaji Nagar, Korba, District Korba (Chhattisgarh)

---- Petitioner

Versus

1. Ramcharan S/o Shri Budhram, aged about 40 years, Caste Suryavanshi, Presently R/o Quarter No.3/2, Banwari Side, Ambedkarnagar, Bangi Mongra, Korba, District Korba (Chhattisgarh) Permanent R/o Village Sevai, Post Office Kutra, District Janjgir Champa (Chhattisgarh)

---- Respondent

For Petitioner – Shri Badal Lal Bhardwaj, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order on Board

14/03/2016

1. The matter is listed on a default pointed out by the Registry.
2. It is submitted on behalf of the petitioner that as there is no delay in filing the instant WP(227), the condonation application though filed, but not required.
3. On due consideration, looking to the submission made in this behalf, the default pointed out by the Registry is hereby overruled.
4. Heard the matter on admission.
5. Brief facts required for the instant WP(227) are that before the Court below a Case No.01B/2013 is pending under the provisions of Section 27 of the Hindu Marriage Act, 1955 wherein the petitioner/applicant had filed an application under Order 11 Rule 12 of the Code of Civil Procedure, 1908 (in short 'the Code'). The Court below after hearing in the matter held that as per reply of the respondent/non-applicant documents in question are not in possession of the non-applicant, some documents are in possession of the applicant and some documents are not required for proper adjudication of the matter and looking to the reply and holding that the parties have to prove their own case dismissed the said application. Against the said order the petitioner approached this Court under the jurisdiction provided under Article 227 of the Constitution of India and by filing the instant WP(227) it is prayed that the order

dated 01-12-2015 passed by the Court below be set aside and any other relief may be suitable in the facts and circumstances may be granted.

6. Heard learned counsel for the petitioner.

7. Learned counsel for the petitioner submits that as per order of the Court below affidavit was filed along with the said application. There is no any reply on affidavit as required along with the reply. Hence, the order passed by the Court below be quashed and other relief as suitable in the facts and circumstances may also be granted.

8. For appreciation of the argument advanced and the instant WP(227), the order passed by the Court below, the application and the reply are perused.

9. Upon perusal of the entire reply, it goes to show that categorically on behalf of the respondent it is submitted that the documents as prayed are not in custody of the the respondent except for a document in relation to the Higher Secondary Examination 1992 it is submitted that the same is not under question neither related with the matter. Hence, it is prayed on behalf of the respondent that the application may be dismissed. After due consideration, along with the specific denial regarding custody of the documents in question and as the certificate in relation to Higher Secondary Examination, 1992 is not a subject matter of the present case, in the considered view of this Court, the Court below has not committed any illegality or impropriety by rejecting the application.

10. On due consideration, I do not see any illegality or impropriety committed by the Court below in the impugned order. Consequently, the instant WP(227) is dismissed at the motion stage itself.

11. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE