

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 252 of 2016

Ramcharan S/o Late Premlal, Aged About 41 Years R/o Village Gelhapani (Ghoda Dafai), Tahsil Manendragarh, District Korea (Chhattisgarh).

---- Applicant

Versus

1. Smt. Usha @ Karuna W/o Ramcharan, Aged About 33 Years R/o Korea Colliery (Samiti Dafai), Ward No. 8, Tahsil Baikunthpur, District Korea (Chhattisgarh).
2. Kiran D/o Ramcharan (Daughter) Aged About 9 Years Minor, Through Represented By Their Natural Guardian Mother Smt. Usha @ Karuna) R/o Korea Colliery (Samiti Dafai), Ward No. 8 Tahsil Baikunthpur District Korea Chhattisgarh
3. Sunil Kumar @ Golu S/o Ramcharan Aged About 6 Years Minor, Through Represented By Their Natural Guardian Mother Smt. Usha @ Karuna) R/o Korea Colliery (Samiti Dalai), Ward No. 8 Tahsil Baikunthpur District Korea Chhattisgarh

---- Non-applicants

For Applicant: Shri Anil Gulati, Advocate

For Non-applicants: Shri Chandra Bhushan Kesharwani,
Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

18.07.2016

1. The present Criminal Revision has been preferred challenging the order dated 17.02.2016 passed by the Family Court, Baikunthpur, District – Korea in Misc. Criminal Case No. 174/2013. Vide the said impugned order the Court below has granted a maintenance amount in favour of the Non-applicants No. 2 & 3.

2. Learned Counsel for the Applicant challenging the said findings by the Court below submits that the order passed by the Court below is bad in law to the extent that there is no proof of paternity so far as present Non-applicants No. 2 & 3 are concerned. He submits that there

are ample evidences which have been brought on record to show that the Non-applicant No. 1 was also married to one Bhagwano and subsequently then had cohabitated with present Applicant and again left the company of the present Applicant and started residing with one Deep Narayan. These facts were brought before the Court below but have not been properly appreciated. He further submits that so far as the solitary document relied by the Court below is concerned the same is not justified to the extent that in the said document the name of the mother was originally written as Nisha which has been struck down and name of the Non-applicant No.1, Usha has been inserted which itself creates a doubt so far as the veracity of the said document is concerned.

3. Learned Counsel for the Non-applicants opposing the same submits that the order passed by the Court is a speaking order and has been passed after due consideration of the evidences which had come before the Court below and therefore there is no scope of interference in the impugned order. He further submits that even the averments made by the Applicant would not be sustainable for the reason that the name of the father of the Non-applicants No. 2 & 3 all along in the school record remain unchanged and that there has been no objection or effort made by the present Applicant for taking out his name as father of Non-applicants No. 2 & 3 in school record. He further submits it is the Applicant who himself says that there has been co-habitation between the present Applicant and Non-applicant No.1. Further the school record would show that it was 5 years back when the name of the father of the Non-applicants No. 2 & 3 were entered in the school record wherein the name of the present Applicant which was reflected as father of the children which by itself is sufficient to prove that the

present Applicant was cohabitating with the Non-applicant No.1 and in course of the time 2 children were born and therefore their father's name was shown as that of the present Applicant.

4. Considering the rival contentions put forth by the either side and further on perusal of the record, this Court is of the opinion that the findings of the Court below is based on the evidences which have come on record. There is no illegality or infirmity committed by the Court below on reaching to the said conclusion.

5. The present Criminal Revision accordingly being devoid of merit, the same is dismissed.

Sd/-

(P. Sam Koshy)
JUDGE