

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 22 of 2016

1. Smt. Nisha Yadav W/o Mukesh Yadav Aged About 24 Years R/o Kashi Nagar, Near Gouri Shankar Mandir Korba, Tah. Korba & Rev. & Civil Distt. Korba Chhattisgarh.
2. Minor Ku. Ruchika Yadav D/o Mukesh Yadav Aged About 3 ½ Years Legal Representative Mother Smt. Nisha Yadav, R/o Kashi Nagar, Near Gouri Shankar Mandir Korba, Tah. Korba & Revenue & Civil Distt. Korba Chhattisgarh.

---- Applicants/Revisioners

Versus

1. Mukesh Yadav S/o Shri Ram Kumar Yadav Aged About 30 Years R/o Village Bhadasar, Tah., Revenue And Civil Distt. Janjgir Champa Chhattisgarh.

---- Respondent

For Applicants	:	None
For Respondent	:	Smt. Indira Tripathi, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

29/02/2016

1. Looking to the present matter as it involves purely a question of law, the instant Cr. Revision is heard even in the absence of non-representation on behalf of the applicants.
2. For the relevance of the instant Cr. Revision, Section 19 of the Family Courts Act, 1984 (hereinafter referred to as the Act of 1984) reads as under :

19. Appeal – (1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law, an appeal shall lie from every judgment or

order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.

(2) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties (or from an order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that nothing in this sub-section shall apply to any appeal pending before a High Court or any order passed under Chapter IX of the Code of Criminal Procedure 1973 (2 of 1974) before the commencement of the Family Courts (Amendment) Act 1991).

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Family Court.

[(4) The High Court may, of its own motion or otherwise, call for and examine the record of any proceeding in which the Family Court situate within its jurisdiction passed an order under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) for the purpose of satisfying itself as to the correctness, legality or propriety of the order, not being an interlocutory order, and, as to the regularity of such proceeding.]

3. Also for the relevance of instant Cr. Revision the proviso to Section 13 of the Act of 1984 reads as under :

13. Right to legal representation.- Notwithstanding anything contained in any law, no party to a suit or proceeding before a Family Court shall be entitled, as of right, to be represented by a legal practitioner.

Provided that if the Family Court considers it necessary in the interest of justice, it may seek the assistance of a legal expert as *amicus curiae*.

4. From perusal of the impugned order dated 4.11.2015, it appears that I.A.No.3 by which the applicant had filed an application before the trial Court to permit her to represent through the counsel, the Court below had rejected the said

application holding that presently, there is no necessity attracted to permit appointment of an Advocate for the applicant, as prayed.

5. From perusal of Section 19 sub-section (4) of the Act of 1984 it goes to show that the impugned order dated 4.11.2015 is an interlocutory order hence, the revisional jurisdiction of this Court as provided under Section 19 sub-section (4) is not attracted. Also surfaced from the impugned order that the Court below has not appreciated the proviso of Section 13 of the Act of 1984 and had not passed the order accordingly.

6. With the above observation, as the instant Cr. Revision has no substance, is disposed of as not maintainable on the above question of law.

7. No order as to cost.

Sd/

(Chandra Bhushan Bajpai)
Judge