

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 274 of 2016**

1. Neeraj Kumar Gupta S/o Premchand Gupta, Aged About 26 Years Caste Vaishya, Occupation Assistant Engineer, Chhattisgarh Electricity Board R/o C/o Shri Premchand Gupta, S/o Late Mewalal, Occupation Teacher, R/o Dabripara Baikunthpur, District Korea, Chhattisgarh

---- Petitioner**Versus**

1. Smt. Kanchan Gupta @ Alka Gupta W/o Neeraj Gupta, Aged About 36 Years Occupation Housewife, R/o Junapara, Baikunthpur, District Korea Chhattisgarh

---- Respondent

For Petitioner	Shri D.N. Prajapati, Advocate
For Respondent	Shri Sanjay Patel, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****29/08/2016**

1. Respondent/plaintiff has preferred a suit for restitution of conjugal right on the allegation that the respondent & petitioner were married at Arya Samaj Madir, Harit Vihar, Delhi on 24-3-2012.

2. While denying the factum of marriage in his written statement the petitioner did not submit any document with the written statement, however, subsequently, he moved an application under Order 8 Rule 1 of the Code of Civil Procedure, 1908 ('the CPC' for brevity) for taking on record the document issued by the Delhi Arya Pratinidhi Sabha (Regd.), New Delhi, along with '*list of Arya Samaj Valid For Marriage*'. The Family Court has refused to take on record the document after appreciating the contents thereof vis-a-vis the contents of certificate relied by the respondent wife.
3. It appears the Family Court has exceeded its jurisdiction or has exercised the jurisdiction with material irregularity by going into the merits of the contents of the document without even, *prima facie*, concluding that either the document is not relevant for adjudication or it has been *mala fide*ly introduced.
4. Considering the fact that it is a matrimonial suit where important aspect of relationship between the parties has to be adjudicated, the parties should be given all the opportunity to prove their respective cases, therefore, the prayer for taking on record the document is allowed subject, however, to payment of cost of Rs.2,000/- payable to the respondent wife. Let the cost

be paid before the trial Court within a period of one month from today. The respondent wife would be at liberty to file document in rebuttal.

5. Accordingly, the writ petition is disposed of with the observations as stated *supra*.

Sd/-

Judge
Prashant Kumar Mishra

Gowri