

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 425 of 2016**

Deepak Kumar Tiwari, S/o Mohan Lal Tiwari, aged about 41 years, R/o- MIG -1/201, Ravishankar Shukla Nagar, Chowki Manikpur, P.S. Kotwali, Korba, Tehsil and District Korba, Chhattisgarh

---- **Petitioner****Versus**

Shrimati Puja Tiwari, D/o Krishan Gopal Agnihotri, R/o L.I.G. 35, Barra-4, Janta Nagar, P.S. Barra, Janpad Kanpur Nagar, Uttar Pradesh

---- **Respondent**

For Petitioner: Mr. Rajnish Singh Baghel, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****29/11/2016**

(1) By the impugned order dated 07.05.2016, the Family Court, Korba has rejected application filed by the petitioner to adjust the amount of Rs.11,000/- already paid to the respondent.

(2) Learned counsel appearing for the petitioner would submit that the respondent was proceeded *ex parte* on 20.07.2005 and the *ex parte* proceedings have been set aside only on 30.03.2016 and, therefore, from 20.07.2005 to 30.03.2016 the respondent is not entitled for expenses/maintenance under Section 24 of the Hindu Marriage Act.

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

(4) The trial Court has rejected the application and exercised its

discretion against the petitioner and in favour of the respondent.

(5) Applying its earlier decision in **Surya Dev Rai v. Ram Chander Rai**¹ and **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Supreme Court in **Sameer Suresh Gupta through PA Holder v. Rahul Kumar Agarwal**³ has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act least a gross failure of justice or grave injustice should occasion.

(6) Having heard learned counsel for the petitioner and having perused the impugned order, this Court does not find any such illegality or perversity committed by the Court below which would warrant exercise of jurisdiction under Article 227 of the Constitution of India.

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

(7) Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-