

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 525 of 2016**

- Smt. Shveta Sarkar W/o Kajal Kumar Sarkar Aged About 32 Years R/o Company Gardan, Tikrai, Baitul, Tah. And District Baitul (M.P.).

---- Petitioner**Versus**

- Kajal Kumar Sarkar S/o Late S.P. Sarkar Aged About 42 Years Occupation Service (S.E.C.L. Baroad) R/o Baroad, Tahsil & District Raigarh Chhattisgarh.

---- Respondent

For Petitioner : Shri Sanjeev Sahu, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****05/09/2016**

1. By the impugned order, the learned Family Court has rejected petitioner's objection to the maintainability of the divorce petition.
2. The respondent has moved an application under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act, 1955') for grant of decree of divorce before the Family Court, Raigarh. The petitioner had earlier preferred an application under Section 9 of the Act, 1955 at Baitul (M.P.), which has been decreed in her favour on 22-4-15. Based on this decree, the petitioner objected to the maintainability of the divorce petition at Raigarh on the ground that once a matrimonial dispute was raised before the Family Court, any subsequent petition between the parties should be tried by the same Court and not by any other Court.
3. Learned counsel for the petitioner would refer to Section 21A of the Act,

1955.

4. The provisions contained under Section 21A of the Act, 1955 provides that when an application for judicial separation under Section 10 or for a decree of divorce under Section 13 is preferred before a district court having jurisdiction and thereafter other party prefers a similar petition under Section 10 or 13 of the Act, 1955 in the same district court or in different district court in the same State or in a different State, both the petitions shall be tried and heard together by that district court, if both the petitions are presented to different district courts, the later petition shall be transferred to the district court in which the first petition was presented and in either case, both the petitions shall be heard and decided together.
5. The present petition is under Section 9 of the Act, 1955 and not under Section 10 or 13 of the Act, 1955. Even otherwise, the first petition presented by the petition at Baitul (M.P.) has already been decided and is no longer pending.
6. It appears that Section 21A of the Act, 1955 no where speaks about the maintainability of the petition when no other petition between the parties under the Act, 1955 is pending elsewhere.
7. Merely because a similar petition was decided by one district court, which is other than the present district court, the petition preferred by the respondent under Section 13 of the Act, 1955 does not become non-maintainable.
8. There is no substance in the writ petition. It fails and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra