

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 153 of 2012**

- Smt. Sangita Talokar, W/o Bhimesh Talokar, Aged about 32 years, R/o. Mamta Nagar, Gali No.5, Rajnandgaon, P.S., Tahsil & District Rajnandgaon (C.G.).

---- Appellant**Versus**

- Bhimesh Talokar, S/o N.M. Talokar Aged about 37 years, R/o Plot No. 92, Punum Colony, P.S., Tahsil District Rajnandgaon (C.G.)

---- Respondent

For Appellant	:	Mr. Anup Majumdar, Advocate
For Respondent	:	Mr. Rajat Agrawal, Advocate on behalf of Mr. S.C. Verma.

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Arvind Singh Chandel

Order On Board By
Justice Prashant Kumar Mishra

03/08/2017

1. By an order passed in F.A. (M) No. 151/2012 today, the instant appeal has been de-linked.
2. Learned counsel for both the parties jointly informed that by an order dated 16/06/2016 passed in Civil Suit No. 153A/2015, the Family Court has allowed the prayer made under Section 13 B of the Hindu Marriage Act, 1955 (In short 'the Act') by the parties for divorce by mutual consent.
3. In the facts and circumstances of the case, the application under

Section 9 of the Act itself has been rendered infructuous. The appeal being continuation of the suit the cause of action for seeking restitution of conjugal right under Section 9 of the Act must survive till the matter attains finality at the appellate stage.

4. In view of the above, the application under Section 9 of the Act, 1955 is rendered infructuous due to subsequent events, therefore, the instant appeal deserves to be and is hereby allowed.
5. The respondent's application under Section 9 of the Act, 1955 deserves to be and is hereby dismissed on account of subsequent events.
6. A decree be drawn up accordingly.

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Arvind Singh Chandel