

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 18 of 2017

Smt. Laxmi Verma W/o Shri Chetan Verma, Aged About 26 Years Occupation Housewife, R/o Village Hatkhoj, Post Surdum, Tahsil And District Durg, (Chhattisgarh)

---- Petitioner

Versus

Chetan Kumar Verma S/o Dwarika Prasad Verma, Aged About 36 Years Caste Kurmi, Occupation Service, Under C S E B, Village Lawatara, Tahsil & Post Berla, District Bemetara (Chhattisgarh), Presently R/o Madwa Plant, Tahsil And District Janjgir (Chhattisgarh)

---- Respondent

For Petitioner	:	Shri A.K. Prasad, Advocate
For Respondent	:	Shri V.G. Tamaskar, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

15/02/2017

Heard.

1. This petition has been filed by the petitioner aggrieved by order dated 23.11.2016 only to the limited extent that if the Court below was not inclined to decide the issue as a preliminary issue, it ought to be left for decision as one of the issue after filing of the written statement.
2. Learned counsel for the respondent submits that petitioner's application has been rejected taking into consideration the pleading made in the suit filed by respondent-husband.
3. The Court below has rejected the petitioner's application by recording a finding only based on pleadings even though written statement was not filed. If the Court below was not inclined to decide the issue as a preliminary issue, at this

stage, even though the issue could not be concluded because it will require evidence oral and documentary on the issue of jurisdiction, as it is a mixed issue of law and facts.

4. Therefore, with the clarification that the impugned order shall not come in the way of the petitioner-defendant in raising plea of jurisdiction in the written statement and framing of issue with regard to jurisdiction before the trial Court, the petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen