

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 180 of 2016**

- Smt. Bhanumati Patel W/o Padman Kumar Patel, Aged About 30 Years, D/o Niranjan, Occupation Shiksha Karmi, R/o Mahalpara, Saraipali, District Mahasamund, Chhattisgarh(Defendant)

---- Petitioner**Versus**

- Padman Kumar Patel S/o Lochan Prasad, Aged About 32 Years Occupation Shiksha Karmi, R/o Village Sarwani, Tahsil And District Raigarh, Chhattisgarh(Plaintiff)

---- Respondent

For Appellant
For Respondent

Shri P. K. Patel, Advocate
Shri Ashish Gupta, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Hon'ble Shri Justice Arvind Singh Chandel****Order On Board By****Prashant Kumar Mishra J.****05/07/2017**

1. This appeal under Section 19 (1) of the Family Courts Act, 1984 (henceforth 'the Act, 1984') is directed against the order passed by the Family Court allowing the respondent's application under Section 9 of the Hindu Marriage Act, 1955 (henceforth 'the Act, 1955') directing the appellant to reconstitute the conjugal rights. Since the appellant Smt. Bhanumati Patel

and the respondent Padman Kumar Patel are present before this Court and have made statement that they are willing to reside together, we are not adverting to the other details about the petition under Section 9 of the Act, 1955. It is stated by the appellant that she is a Shiksha Karmi Grade-II and is presently posted at Government Girls School under the Nagar Panchayat, Basna, District Mahasamund. She would submit that she is a teacher belonging to the Nagriya Nikay Cadre.

2. The respondent Padman Kumar Patel would submit that he is an Assistant Teacher (Panchayat) in the Department of Panchayat and Social Welfare and is presently posted at Basantpur, which is about 25 kms from Raigarh. He would submit that he is native of Village Sarwani, which is located at distant of about 15 kms from Pussour. His parents, aged more than 60 years, are residing at Village Sarwani.
3. Both the parties have agreed to live together happily and amiably forgetting their previous differences, however, they would demonstrate difficulty in remaining at one place, because the wife is a teacher working in the Nagriya Nikay Cadre, whereas the husband is an assistant teacher in Panchayat Department.
4. In view of the desire expressed by both the parties to live together, in order to facilitate their posting at one place, we sought assistance from Shri J. K. Gilda, learned Advocate General duly assisted by Shri Ramakant Mishra, learned

Deputy Advocate General to find out the possibility of posting both the parties at one place or nearby places. In course of hearing, it transpired that for the present, both the parties can reside together at Raigarh, where the wife can be posted in one of the school managed by the Nagriya Nikay and the husband may remain posted at Basantpur.

5. We are fully aware of our jurisdictional constraint in passing an order concerning posting of husband or wife while making effort for settlement in exercise of jurisdiction under the Act, 1984. However, we are equally concerned about the fact that if in the process of affecting settlement between the parties, for which they are otherwise agreeing, any obstruction occurs which can only be settled at the level of Government or any other authority under the Government, we owe duty to explore such possibility and advise the concerned Government or authority so that reunion of the family is possible and it may not get frustrated only because the husband and wife could not be posted at one place despite settlement.
6. Shri J. K. Gilda, learned Advocate General and Shri Ramakant Mishra, learned Deputy Advocate General assured the Court that in order to facilitate implementation of the order of reunion as desired by this Court, they shall instruct the concerned department of the State Government as also the concerned Collectors to pass appropriate orders for posting of the wife at a Nagriya Nikay School at Raigarh within a period of 2 months

from today.

7. We appreciate the assistance rendered by Shri J. K. Gilda, learned Advocate General and Shri Ramakant Mishra, learned Deputy Advocate General in making their own efforts to contribute to reunite the husband and wife for beginning of a new chapter in their life.
8. This order concerning posting of the wife at Raigarh is passed with the assistance of learned Advocate General and learned Deputy Advocate General, however, it shall not be used as precedent in any other case.
9. Accordingly, the appeal stands disposed of.

Sd/-

Judge

Prashant Kumar Mishra

Sd/-

Judge

Arvind Singh Chandel

Nirala