

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 567 of 2015***{Arising out of Order dated 23.06.2015 passed in Case No. 133-A/2011 by the Principal Judge, Family Court, Raipur}*

Shesh Narayan Baghel Aged about 35 years, S/o Shri Bharat Bhushan Baghel,
R/o village and Post Pathri, District Raipur, Chhattisgarh.

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

Smt. Ranjita Baghel W/o Shri Shesh Narayan Baghel, Aged about 32 years, C/o
B.P.Pargniha, R/o Near Prakritik Chikitsalaya, Behind the Jain Mandir, Vidyut
Nagar, Durg, District Durg, Chhattisgarh.

---- **Respondent**

For Petitioner	: None.
For Respondent	: Shri D.N.Prajapati, Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Order on Board****05/12/2017**

1. This application under Article 227 of the Constitution arises from a proceeding which unfortunately is still pending in the Family Court, Raipur.
2. Heard the learned counsel for the Respondent.
3. The application for divorce filed by the husband had reached the stage of evidence. It is on record that sometimes in 2012, he had parted with two Demand Drafts, total amounting to Rs. 15,00,000/- in favour of the wife, stated to be for the support of the wife and the daughter. An earlier application for enforcement of yet another order for litigation expenses and *pendente lite* maintenance of wife at the rate of Rs. 2000/- per month was turned down on consideration of an application under Order 21 Rule 37 of the Code of Civil Procedure, 1908. However, just at the commencement of the trial, the husband

faced the situation where he was told to again pay arrears at the rate of Rs. 2000/- per month.

4. Having considered the materials on record, including the wife's affidavit that was filed before the trial Court, it is noted that the receipt of two Demand Drafts totaling to Rs. 15,00,000/- is admitted by her. However, the stand taken by her is that the said amount would accrue only upon the divorce petition being allowed. Obviously therefore, this is an abundantly fit case where the Family Court, having regard to the vistas of jurisdiction under the Family Courts Act, 1984 ought to have kept aside the technical formalities in the nature of enforcement of orders which were dependent on the conduct of the parties and ought to have proceeded to render a final verdict in the application for divorce. This would be the only means in the case in hand to render justice to the parties to this litigation.
5. In the result, the impugned order is set aside and the writ petition is ordered directing that the Family Court, Raipur will take up the final adjudication of the proceedings from which this matter arises and decide on that application namely case No. 133-A/2011 without fail within a period of two months from the date of receipt of a copy of this judgment.
6. The writ petition is ordered accordingly.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE