

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 701 of 2015**

*{Arising out of Order dated 06.08.2015 passed in Case No. 01 of 2015 by the
Principal Judge, Family Court, Raipur}*

1. Atiya Naj D/o Shri Abdul Rafiq Khan, aged about 24 years, R/o Beside Aman Medical Stores, Lalita Chowk, Tatyapara, Raipur, Police Station - Azad Chowk, District Raipur, Chhattisgarh.
2. Shri Abdul Rafiq Khan S/o Late Shri Abdul Azim, Aged about 54 yedars, R/o Beside Aman Medical Stores, Lalita Chowk, Tatyapara, Raipur, Police Station Azad Chowk, District Raipur, Chhattisgarh.

---- **Petitioners****Versus**

Samir Kuraishi S/o Shri Abdul Kadar Kuraishi, Aged about 31 years, R/o House of Ranjan Light, Neharu Nagar, Colony, Raipur, Police Station, City Kotwali, District Raipur, Chhattisgarh.

---- **Respondent**

For Petitioners	: Shri Prakash Tiwari, Advocate.
For Respondent	: None.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Order on Board**05/12/2017**

1. This writ petition under Article 227 of the Constitution of India arises from a proceedings pending before the Family Court, Raipur. An order requiring the parties to attend counselling is under challenge.
2. Heard the learned counsel for the Petitioners.
3. The first Defendant is the daughter of the second Defendant. They are the Petitioners in this petition. The Plaintiff-Respondent instituted a suit for declaration that he is the husband of the first Defendant. He also sought issuance of mandatory injunction commanding the first Defendant to maintain conjugal life with him. His suit is based on a document shown as 'Nikahnama'.

The materials on record, including the pleadings, tend to indicate that there are considerable disputes between the parties as to the genuineness and veracity of that document, as also its enforceability. On query, it is told that the Moulvi of the concerned mosque had repudiated issuance of the alleged 'Nikahnama' and that a criminal proceeding is also pending against the Plaintiff-Respondent.

4. On the totality of the facts and circumstances, it would be unjust, unreasonable and improper to compel the parties to proceed for counselling and other modalities of resolution of disputes otherwise than through adjudication. This is the situation which is available in the case in hand. Therefore, the impugned order has to necessarily go paving way for adjudication and decision on the matter pending before the Family Court, on merits.
5. In view of the above, the order dated 06.08.2015 (Annexure P/1) is set aside. The Family Court, Raipur is directed to try and dispose of the suit in which that order was issued at the earliest, preferably within a period of three months from the date of receipt of a copy of this judgment.
6. In the result, this petition is allowed as above.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE