

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 135 of 2017

- Bhagwat Prasad Sahu S/o Late Hariram Sahu Aged About 26 Years R/o 15 Block Quarter G-44, Korba, Chowki C.S.E.B. Korba, Tahsil And District Korba, Chhattisgarh

---- Petitioner

Versus

- Smt. Bhuneshwari Sahu W/o Bhagwat Prasad Sahu Aged About 23 Years R/o Village Sundereli, Tahsil Sakti, P.S. Baradwar, District- Janjgir-Champa, Chhattisgarh

---- Respondent

For Appellant

Shri Dashrath Prajapati, Advocate

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

Order on Board by Prashant Kumar Mishra J.

03/08/2017

I. A. No.1

This is an application for condonation of delay of 156 days in filing the appeal.

After hearing learned counsel for the appellant, we are satisfied that the delay of 156 days in filing the appeal has been satisfactorily explained, therefore, it deserves to be and is hereby condoned. Consequently, I. A. No.1 stands allowed.

Heard learned counsel for the appellant on admission.

1. The Family Court has allowed maintenance of Rs.2,500/- per month in favour of respondent wife. It is argued that the

respondent wife is imparting private tuition to the students at her house and earns Rs.4,000/- to 5,000/- per month, therefore, the respondent having sufficient income for her sustenance, she is not entitled for any maintenance. It is also argued that by way of an agreement between the parties, they have resolved to live separately and the respondent has relinquished her right to claim maintenance, therefore, for this reason also, she is not entitled to any amount of maintenance.

2. Having heard learned counsel for the applicant and on perusal of the impugned order, it appears, the appellant himself suggested to the respondent, during her cross-examination, that the appellant had purchased one Hyva heavy vehicle by obtaining personal loan and that too has been taken away by the banker on account of appellant's failure to repay the debt, therefore, presently, he is not owning any vehicle nor earning any amount. Similarly, the respondent and her witnesses have deposed that the appellant owns 2 acres of agricultural land and is a professional driver. The fact that the appellant owns 2 acres of land has also been admitted by the appellant's witnesses namely, Virendra Sahu (NAW-2) and Sant Ram (NAW-3) as found by the Family Court in para 28 of the impugned order.
3. No material has been placed before us to demonstrate that the above findings are perverse.
4. In respect of the agreement between the parties wherein the respondent has allegedly relinquished her right to seek maintenance, suffice it would be to say that such agreements have never been considered to be having any legal sanctity. The

provisions contained in Section 125 Cr.P.C or for that matter in any other law entitling wife to seek maintenance from the husband being social welfare legislations, any private agreement dis-entitling the wife to claim such maintenance has always been considered to be opposed to public policy, therefore, not enforceable. Thus, the appellant cannot take benefit of such agreement between the parties.

5. For the foregoing, we do not find any substance in this appeal, therefore, it deserves to be and is hereby dismissed at the admission stage itself.

Sd/-
Judge
Prashant Kumar Mishra

Sd/-
Judge
Arvind Singh Chandel

Nirala