

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 456 of 2017**

Smt. Pritha Moitra (Ghoshal), W/o Deepanker Moitra, Aged about 39 years, R/o J/8, Parijat Colony, Bilaspur, District – Bilaspur (C.G.)

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

Deepanker Moitra, S/o Dr. R.K. Moitra, Aged about 44 years, R/o Flat No.-820, Block No.-A/4, Milan Heights, Near Agrawal Public School, Bichooli Mardana, Indore, District Indore (M.P.), Presently resident at Mumbai, Maharashtra

---- **Respondent**

For Petitioner :	Mr. Prateek Sharma, Advocate.
For Respondent :	Mr. Vinay Pandey, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****16/08/2017**

(1) Learned Family Court, Bilaspur, by its impugned order dated 27.06.2017, has rejected the application filed by the petitioner under Section 24 of the Hindu Marriage Act, 1955 merely on the ground that petitioner-plaintiff is a practising advocate and not adjudicated the fact that whether she is entitled for interim maintenance or not under Section 24 of the Act, 1955.

(2) Learned counsel for the petitioner would submit that the impugned order passed by the trial Court is bad in law and, therefore, the same is liable to be set aside.

(3) Per contra, counsel for the State supported the impugned order.

(4) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(5) A careful perusal of the impugned order would show that the Family Court has rejected the application under Section 24 of the Act, 1955 filed by the petitioner merely on the ground that petitioner-plaintiff is a practising Advocate and did not proceed further to decide whether she is entitled for interim maintenance or not under Section 24 of the Act, 1955 *whereas* in all fairness entitlement of the petitioner ought to have been decided keeping in view the provisions contained in Section 24 of the Act, 1955 and the judgment of the Supreme Court in the matter of **Amarjit Kaur Vs. Harbhajan Singh and another**¹ (paragraph 8).

(6) In view of above, the writ petition is allowed. Impugned order dated 27.06.2017 is set aside. The application under Section 24 of the Act, 1955 is restored to the file of Family Court, Bilaspur for hearing and disposal in accordance with law expeditiously preferably within a period of one month from the date of receipt of certified copy of this court.

(7) No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

¹ (2003) 10 SCC 228