

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 115 of 2015

(Arising out of judgment/order dated 05.08.2015 in Civil Suit No.
79A/2014 of the learned Family Court, Ambikapur)

- Smt. Gajyantri Paikra W/o Sanjay Singh Paikra, Aged About 24 Years Caste- Kanwar, R/o Village- Dhurena, Post- Dipika, Police Station- Dipika, Revenue And Civil District- Korba (Chhattisgarh)

---- Petitioner

Versus

- Sanjay Singh S/o Subran Singh, Aged About 30 Years Caste- Kanwar, Occupation- Service At 10 Wahini, Chhattisgarh Bal Surguja, R/o Village- Dumarmuda, Post- Gopalpur, Police Station- Darri, Revenue And Civil District- Korba (Chhattisgarh), Present R/o Trikon Chowk, Kedarpur, (House Of Tiduram Kushwaha), Police Station- Nagar, Tahsil- Ambikapur, Revenue And Civil District- Surguja (Chhattisgarh)

---- Respondent

For Appellant
For Respondent

Shri D. Kushwaha, Advocate
Shri D.N.Prajapati and Ms Rabiya Khan,
Advocates

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

Order On Board

20/09/2017

1. The appellant would challenge the judgment and decree passed by the Family Court allowing the respondent's application under Section 9 of the Hindu Marriage Act, 1955 (for short the Act, 1955) for restitution of conjugal rights.
2. Both the parties have made allegations and counter allegations against each other, however, in course of

hearing, learned counsel for the parties would jointly inform that during pendency of the present appeal, the respondent husband has moved an application under Section 13 of the Act, 1955 for grant of divorce. Learned counsel for the appellant would also submit that the appellant does not want to live with the respondent.

3. In view of the above, since a divorce petition has already been filed by the respondent, in whose favour a decree for restitution of conjugal rights has been allowed by the Family Court, the impugned decree has become redundant and meaningless, because as on the date both the parties are not willing to reside together.
4. The appeal, therefore, deserves to be and is hereby disposed of without any opinion or finding on merits. However, as agreed by the parties, it is observed that the impugned decree shall not furnish a ground to the respondent husband for seeking divorce under Section 13 (1-A) (ii) of the Act, 1955.
5. The appeal stands disposed of.

Sd/-

Sd/-

Judge

Judge

Prashant Kumar Mishra

Arvind Singh Chandel

Akhilesh