

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 324 of 2017**

- Paluram Nagvanshi S/o Late Shri Dhiruram Nagvanshi, Aged About 70 Years Occupation Nothing, R/o Village Bade Rampur, Police Station City Kotwali, Tahsil And District Raigarh Chhattisgarh

----Applicant**Versus**

1. Smt. Urmila Nagvanshi Wd/o Late Shri Fulsingh Nagvanshi, Aged About 27 Years Occupation Labour, R/o Ward No. 8 Turripura, Raigarh, Police Station City Kotwali, Tahsil And District Raigarh Chhattisgarh
2. Minor Ku. Shweta Nagvanshi, D/o Late Shri Fulsingh Nagvanshi, Aged About 5 Years Through His Mother And Natural Guardian Smt. Urmila Nagvanshi, R/o Ward No. 8 Turripura Raigarh, Police Station City Kotwali, Tahsil And District Raigarh Chhattisgarh

----Non-Applicants

For Applicant	:	Shri Roop Naik, Advocate
For Non-Applicants	:	Shri NK Chatterjee, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****16/08/2017**

1. Heard.
2. Present revision is against the order dated 01.02.2017, passed by the Court of First Additional Sessions Judge, Raigarh, wherein an order passed in an appeal bearing No.134/2016 whereby the preliminary objection which was raised by the applicant being dismissed by the trial Court vide order dated 06.12.2016 was affirmed.
3. Facts of the case would reflect that an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act,

2005') was filed by Smt. Urmila Nagvanshi along with her minor daughter, wherein maintenance and Streedhan was prayed for. After service of this notice an application was filed by the applicant by raising objection that the application is not tenable on the ground that the applicant is not covered under the definition of Section 2 (f) of the Act, 2005 as the applicant is residing separately. Consequently, it cannot be stated that the applicant can be termed as relative as per Section 2 (q) of the Act, 2005.

4. The application (Annexure A-2) filed by the respondents is perused, wherein it is stated that after the death of the husband of non-applicant No.1, she was abused and subjected to domestic violence and as such she was forced to leave her matrimonial house and to live along with her mother and father and the entire streedhan and some documents have been kept by the applicant.
5. Learned counsel for the applicant submits that since the domestic relationship has not been established and as such the application is not tenable and the same may be dismissed.
6. Perused the Section 2 (f) and 2 (q) of the Act, 2005, which reads as under:-

“2(f) “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

2(q) “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of marriage may also file a complaint against the relative of the husband or the male partner;”

7. Perusal of the application filed by the non-applicants would show that the applicant herein is the father-in-law of the non-applicant No.1 and the same has also not been disputed as it would be evident from the objection raised by the applicant. The definition of domestic relationship as has been given provides that domestic relationship means a relationship between two persons who live or have, at any point of time, lived together in a shared household. At this stage it cannot be stated and can be admitted that the respondents were residing separately from the initial days and it would be too premature to hold that the respondents were not in relationship with the applicant. The facts can be decided after the parties adduce their evidence on this issue. Only on the basis of pleadings no finding can be arrived at. Consequently, after going through the averments of the application, I do not find any illegality in the order of the court below, so as to interfere with the same. Accordingly, the revision is dismissed.

Sd/-

Goutam Bhaduri

Judge

Ashu