

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 60 of 2016

- Smt. Meena Yadav W/o Bhupendra Kumar Yadav, Aged about 25 Years, C/o Sanat Yadav, Village- Jevra Sirsa, Ward No.13, P.S.- Chauki Jevra Sirsa, Tahsil & Distt. Durg (Chhattisgarh)

---- Appellant

Versus

- Bhupendra Kumar Yadav S/o Shri Dukaalu Ram Yadav, Aged about 27 Years, R/o Village Kachandur, P.S.- Chauki Jevra Sirsa, Tahsil & Distt. Durg (Chhattisgarh)

---- Respondent

For Appellant : Shri T.K. Jha, Advocate.
For Respondent : None

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

Order on Board By

Prashant Kumar Mishra, J.

28-06-2017

1. This appeal is against the order passed by the Family Court directing the appellant to value the suit for return of *Stridhan* as per Section 7 of the Court Fees Act, 1870 and to pay the Court fee, on the said valuation.
2. The impugned order has been passed even before registration of the suit and there is no adjudication on merits, therefore, we proceed to decide the present appeal even in the absence of respondent's counsel.
3. The matter in issue is covered by judgment rendered by co-ordinate Bench in which one of us (Prashant Kumar Mishra, J.) was a member. In the said matter bearing FAM No.61/2016 (Smt. Devika Joshi vs. Deepak Joshi), this Court while dealing with exactly similar issue has held that Section 7 of the

Court Fees Act, 1870, nowhere provides for computation of fee payable for any matrimonial suit or a suit or proceedings contemplated under Section 7 of the Family Courts Act. It is further held that in matrimonial suit, fixed Court fee of Rs.40/- is payable in all suits presented before the Family Court in relation to proceedings under the Hindu Marriage Act, 1955.

4. In view of the above, the impugned order directing the appellant to value the suit in terms of Section 7 of the Court Fees Act and make payment of *ad-velorem* Court fee is set aside. The matter is remitted back to the concerned Family Court to proceed with the trial of the suit in accordance with law. A copy of the order passed in FAM No.61/2016 is retained in the file of this appeal.

Sd/-
JUDGE
(Prashant Kumar Mishra)

Sd/-
JUDGE
(Arvind Singh Chandel)