

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 232 of 2018**

Dikeshwar Singh @ Sunny S/o Himachal Singh, Aged About 26 Years R/o New Krishna Nagar, Shyam Chowk, Supela, Bhilai, District Durg Chhattisgarh. --- **Petitioner**

Versus

Smt. Anisha @ Yisha Rajput W/o Dikeshwar Singh @ Sunny, Aged About 24 Years Occupation House Maker, Resident of New Krishna Nagar, Supela, Bhilai At Present Resident of Nandi Vihar Colony Kawardha, Thana & Tehsil Kawardha, District Kabirdham, Chhattisgarh., --- **Respondent**

For the Petitioner : Mr. Rajnish Singh Baghel, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board**28.03.2018**

1. Heard.
2. The present petition is against the order dated 07.02.2018 passed by the Family Court Kabirdham whereby the application preferred by the petitioner to stay the proceedings of application filed u/s 9 of the Hindu Marriage Act for restitution of Conjugal Rights was dismissed.
3. The facts of the case are that the petitioner/husband herein has filed the petition u/s 12 of the Hindu Marriage Act for declaring the marriage as nullity on the ground that the respondent was carrying pregnancy before her marriage. The said petition was filed in the Family Court, Durg. Another petition u/s 9 of the Hindu Marriage Act was preferred by the wife for restitution of conjugal rights which is pending before the Family Court, Kabirdham. On a transfer petition being filed by the wife, the case preferred

by the petitioner husband before the Family Court, Durg, for declaring the marriage as nullity was directed to be transferred to Family Court, Kabirdham vide order dated 19.02.2018 passed by the coordinate Bench of this Court in Transfer Petition (C) No.58/2017 .

4. Learned counsel for the petitioner would submit that on one hand the petitioner has prayed that the marriage be declared as null and void and on the other hand the wife has prayed for restitution of conjugal rights, therefore, in such case if any finding u/s 9 is arrived at with regard to relation of the petitioner and the wife, it may have adverse affect and there will be overlapping of evidence. He submits that under the circumstances, it may be directed that both the cases i.e., the petition filed u/s 12 of the Hindu Marriage Act filed by the husband which has already been directed to be transferred to Family court, Kabirdham and the petition filed u/s 9 of the Hindu Marriage Act for restitution of conjugal rights may be heard analogously.
5. The argument advanced by learned counsel for the petitioner appears to be reasonable. Since the husband has already filed an application u/s 12 of the Hindu Marriage Act to declare the marriage as null and void and simultaneously the wife has filed an application u/s 9 of the Hindu Marriage Act for restitution of conjugal rights, in the facts and circumstances of the case it would be appropriate if both the cases are heard together by the same Court as the case No.605-A/2017 preferred by the petitioner has already been directed to be transferred to the Family Court, Kabirdham where the petition filed by the wife is pending.

6. Taking into such facts situation of the case, it is directed that the court below shall hear and decide both the cases analogously as the finding of both the cases may strange upon each other.
7. With such observation, this petition stands disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**

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