

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 83 of 2018

Smt. Abhilash Dubey W/o Amit Dubey Aged About 33 Years (D/o Sampat Lal Tiwari), R/o Nariyal Kothi Near Shiv Mandir Dayalband Bilaspur, District Bilaspur, Chhattisgarh
---- **Appellant**

Versus

Amit Dubey S/o Banshilal Dubey Aged About 34 Years R/o Jay Hind Nagar Akaltara P.S. And Tahsil Akaltara, District Janjgir-Champa, Chhattisgarh
---- **Respondent**

For Appellant	:	Mr. P.K. Tulsyan, Advocate along with the appellant is present in the Court.
For Respondent	:	Mr. Ajay Thakre, Advocate

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

09/08/2018

Heard.

1. During the course of argument, it transpired that this appeal is directed against an ex parte decree and judgment without moving any application to seek setting aside of ex parte decree before the same Court which passed the ex parte decree.
2. Learned counsel for the appellant, at this stage, seeks to withdraw this appeal on the statement that he intends to move appropriate application for setting aside ex parte decree before the Family Court which passed the ex parte decree. He also seeks liberty that he may be permitted to revive present appeal in case, occasion so arises.
3. In view of the aforesaid statement, we are inclined to permit the appellant to withdraw this appeal, at this stage, with liberty to revive, in case, occasion so

arises. Though no liberty is required to move application for setting aside ex parte decree. If such application is moved before the concerned Family Court, the same shall be decided on its own merits and in accordance with law.

4. Learned counsel for the appellant submits that the appellant's fears threat and injury to her life and limb and because of that fear, she is finding it difficult to go and appear before the Family Court, Janjgir-Champa.

5. The allegation of threat are denied by learned counsel for the respondent. He submits that the respondent would behave as law abiding citizen.

6. We make it clear that it would be open for the appellant to move application for setting aside ex parte decree before the Family Court, Janjgir-Champa and prosecute all the proceedings before the same personally and / or through her counsel. If any attempt is made to affect her life and limb by the respondent or any person at his behest, in addition to inviting appropriate penal action under the Penal Laws, it would be treated as an act of contempt of Court. The appellant would be at liberty to make appropriate application before the Family Court in this regard and also to approach the police machinery in such eventuality. Moreover, it will also be open for the appellant to assess situation on such grounds and if so advised, to apply application for transfer to any other Court in the State.

7. With the liberty as prayed for, this appeal is dismissed as withdrawn.

8. Certified copy of the impugned judgment and decree, may be returned to learned counsel for the appellant after retaining photocopy of the same.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge