

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 352 of 2018**

- Amrita Bajpai S/o Sunil Dutt Bajpai Aged About 25 Years R/o Bajpai Sadan Near Scorpion Bar, Gali No. 6, Deepak Nagar Durg Tahsil And District Durg Chhattisgarh. Note - Though In The Certified Copy Of Impugned Order Her Name Has Been Mentioned As Amrita Verma But She Has Never Married To Him And Is Not Wife Of Amit Verma, Chhattisgarh

---- Petitioner**Versus**

- Amit Verma S/o Shri Lal Sai Verma Aged About 33 Years R/o 21-C, L-Pocket , Maroda Sector , Bhilai, Tahsil And District Durg Chhattisgarh

---- Respondent

For Petitioner : Shri PR Patankar, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****23/04/2018**

1. Heard.
2. The instant petition is against the order dated 09.03.2018, wherein an objection made by the petitioner as preliminary objection was directed to be adjudicated after recording the evidence as it involves mixed question of fact and law.
3. Learned counsel for the petitioner submits that the application for restitution of conjugal rights was filed by the respondent/plaintiff under Section 9 of the Hindu Marriage Act against the petitioner. He further submits that the petitioner was never married to the respondent herein and as such application under Section 9 of the Hindu Marriage Act is not tenable at all. He further submits that the trial Court without evaluating the facts has

ordered to file written statement.

4. After perusal of the order it is observed that the petitioner herein may file her written statement before the Court on the next date of hearing raising entire grounds raised in the preliminary objection. Since it has been stated that the respondent was never married, therefore, in order to proceed under Section 9 of the Hindu Marriage Act, the Court shall first adjudicate the issue as to whether the petitioner was married to the respondent or not as preliminary issue. The Court may for such purpose record the evidence to answer the petitioner herein whether was married to respondent/plaintiff or not ? Thereafter, it is in affirmative or negative based on such finding further course of maintainability of the petition under Section 9 of the Hind Marriage Act would be decided.
5. With such observation, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu