

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 77 of 2016

- Smt. Savita Khandelwal W/o Akhilesh Khandelwal, Aged about 44 Years
R/o Amlataspuram Rudri Road, Dhamtari, Tahsil- Dhamtari, Distt.
Dhamtari, ChhattisgarhNon-Applicant

---- Appellant

Versus

- Akhilesh Khandelwal S/o Shri Satish Khandelwal, Aged About 46 Years
R/o Danitola Ward Dhamtari, Tahsil- Dhamtari, Distt. Dhamtari,
ChhattisgarhApplicant

---- Respondent

For Appellant	: Ms Bulbul Agrawal, Advocate
For Respondent	: Shri SS Rajput, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice Sharad Kumar Gupta

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

05.02.2018

1) This is a matrimonial appeal. We have heard the legal aid counsel appearing for the appellant- wife and the learned counsel for the respondent- husband.

2) The appellant and respondent married in March 1992. They have two sons.

3) Though this litigation has had different rounds by way of *ex-parte* decree, application for setting aside the *ex-parte* decree and application for restoration of the application to set aside the *ex-parte* decree, we are of the view that this being a matter relating to matrimonial jurisdiction, we are to take a lenient view, especially when the wife pleads that she had not had due opportunity to contest the litigation. We have heard different

submissions touching the allegations levelled by the parties *inter se*. On the whole we are satisfied that this is an abundantly fit case where the trial Court, notwithstanding the efforts already taken by it, should take this matter forward with an attempt to find out whether there could be reconciliation as between the parties in relation to the manner in which they would settle their disputes, particularly having regard to the affairs of the children. We are also of the view that if mediation does not become fruitful, the Family Court should make another effort to decide the matter on its merits after giving due opportunity to the parties.

4) In the result, the order refusing to set aside the *ex-parte* decree and the *ex-parte* decree passed by the Family Court, Dhamtari in Civil Suit- 6 of 2013 are set aside, thereby paving way for reconsideration of that Civil Suit in accordance with law. Parties are directed to mark appearance before the Family Court, Dhamtari on **27th February**, 2018. The appeal ordered accordingly without entering on merits of the rival contentions. Let the Family Court, Dhamtari make an effort to expedite the final disposal of the matter, having regard to age of the parties and the pendency that the litigation has already undergone.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge