

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 172 of 2018**

- Laxminarayan Bareth S/o Shri Ram Lal Bareth Aged About 36 Years R/o Village - Kosmanda, Near Railway Gate, Champa, District Janjgir Champa Chhattisgarh. Present Address Rajur Colliery, Post - Rajur Colliery, Tahsil Vani, District Yavatmaal (Maharashtra)

---- Petitioner

Versus

1. Smt. Saraswati W/o Shri Laxminarayan Bareth, Aged About 31 Years
2. Minor Sanjana D/o Shri Laxminarayan Bareth, Aged About 7 Years Through Natural Guardian Mother Smt. Saraswati, R/o Ompur Colony, Police Chowki Rajgamarg, Tahsil And District Korba Chhattisgarh. (Plaintiff)

---- Respondent

For Petitioner
For Respondents

Mr. Ravindra Sharma, Advocate
Mr. Pallav Mishra, Advocate

**DB.: Hon'ble Mr. Justice Prashant Kumar Mishra &
Hon'ble Mrs. Justice Vimla Singh Kapoor**

Order On Board By**Prashant Kumar Mishra, J.****26/10/2018**

1. The matter is posted for hearing on admission, however, since learned counsel for the parties have agreed to argue the matter finally, it is heard finally.
2. The Family Court has dismissed the appellant's application

under Section 6 of the *Sarankshak Aur Pratipalya Adhiniyam*, 1890, by which, the appellant had claimed custody of his minor daughter Ku. Sanjana, presently aged about 7 years 7 months.

3. Admittedly, the appellant-husband is running a Laundry at Rajur Colliery, Post Rajur Colliery, Tahsil Vani, District Yavatmaal, Maharashtra and is a permanent resident of Village Kusmunda, Tehsil Champa, District Janjgir-Champa (CG). Similarly, respondent No.1 -wife is residing with her 7 brothers at Ompur colony, Police Station Rajgamar, Tehsil and District Korba (CG). While the appellant earns Rs.4000-5000/- per month from his laundry work, the respondent-wife is residing jointly with her brothers.
4. Both the parties have made allegations against each other of being habitual in consuming liquor, however, both the parties have failed to prove the allegations.
5. The trial Court has dismissed the application for the reason that the appellant is not well off as he earns very meagre amount from his laundry work and he has also admitted that after seeking custody of his daughter, he will send her to Village Kusmunda, therefore, since the appellant will not take care of his own daughter by keeping her with him, there is no point in granting custody to him.
6. We have perused the record and have found that the appellant has admitted in his cross-examination that once the custody of his daughter is handed over to him, she would be sent to Village

Kusmunda where she will reside with his brothers. Thus, the appellant is not going to keep the daughter with himself but despite the application being allowed, the daughter will remain separate from her father. In fact, if the application is allowed, the daughter will lose her mother as well as her father as she will be forced to reside with her uncles at village Kusmunda. Therefore, the application has rightly been dismissed by the trial Court.

7. The first appeal is accordingly dismissed.

Sd/-

(Prashant Kumar Mishra)

Judge

Sd/-

(Vimla Singh Kapoor)

Judge

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