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HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 161 of 2018**

- Shankar Lal Banjare S/o Tuman Lal Banjare, Aged About 25 Years R/o Village Amrikala, Police Station And Tehsil Gurur, District Balod Chhattisgarh, Temporary Address, In Front Of House Of Smt. Pushpa Yadav W/o Pankaj Yadav, At Village Somni, Police Station Utai District Durg Chhattisgarh. (Plaintiff)

---- Petitioner**Versus**

- Smt. Priyanka W/o Shankar Lal Banjare, Aged About 19 Years D/o Rekhuram Sahu, R/o Village Bodal, Tehsil Gunderdehi, District Balod Chhattisgarh District : Balod, Chhattisgarh (Defendent),

---- Respondent

For Petitioner	Mr. Tarun Dadsena, Advocate on behalf of Mr. Jitendra Gupta, Advocate
For Respondent N	Ms. Priya Sharma, Advocate

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

Order On Board By**Prashant Kumar Mishra, J.****16/11/2018**

1. Heard.
2. The trial Court has dismissed the appellant's application under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights.
3. A perusal of the record would indicate that the parties were

married at Arya Samaj Mandir, Raipur on 25.12.2013, whereafter, they resided together for some time, but the respondent's father took her back and since thereafter, the respondent has not returned to join the company of the appellant.

4. The respondent-wife has contested the application on averment that the parties belong to different castes and the appellant coerced her by mis-representation and got married at the Arya Samaj Temple, which is void *ab initio* as her consent for marriage was obtained by playing fraud and misrepresentation.
5. Since the respondent-wife is contesting the very factum of a valid marriage, an application for restitution of conjugal rights has rightly been disallowed, as the same is impermissible unless there is a declaration by jurisdictional Court about their marital status.
6. There is no substance in the first appeal, the same is liable to be and is hereby dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge

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