

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****FAM No. 205 of 2018**

Smt. Archana Nath W/o Shri Shailendra Nath Aged About 37 Years R/o  
Shitala Mahamaya Mandir Road, Near Navdurga Chowk, Aminpara,  
Purani Basti, Raipur, Chhattisgarh **----Appellant**

**Versus**

Shailendra Nath W/o Late Swaminath Aged About 40 Years R/o Block  
No. 8-C Road No. Avenue A Sector 7 Bhilai Nagar Tahsil And District-  
Durg, Chhattisgarh **---Respondent**

---

For Appellant : Mr. N.K. Malviya, Advocate

---

**DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Hon'ble Shri Justice Gautam Chouradiya**

**Order On Board****10/09/2018**

Heard on admission.

1. This appeal is directed against order dated 12.07.2018, by which, the petitioner's application raising issue on territorial jurisdiction has been rejected by the Family Court.
2. Learned counsel for the appellant argues that the objection of the petitioner that the Family Court at Durg will have no territorial jurisdiction as the child whose custody is sought ordinarily reside with his mother at some other place/Raipur has been rejected by the learned trial Court. He places reliance upon the judgment of the Hon'ble Supreme Court in the case of **Ruchi Majoo vs Sanjeev Majoo, 2011 (6) SCC 479.**
3. From the impugned order, we find that the learned trial Court, at this stage, having prima facie found the case to be maintainable has rejected the application recording that the issue of territorial jurisdiction is mixed question of law and fact. We are of the view that this issue would require consideration

by allowing the parties to lead oral and documentary evidence during the trial of the case. We expect the family Court to frame issue in this regard and decide the same during the course of trial of the case. No interference, at this stage, is called for. Therefore, the appeal is dismissed.

Sd/-

**(Manindra Mohan Shrivastava)**  
Judge

Sd/-

**(Gautam Chouradiya)**  
Judge

Rekha