

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 919 of 2018**

Pramod Kumar Soni son of Shri Ratan Lal Soni, aged about 33 years, resident of Jawahar Nagar, Durg (Chhattisgarh).

---Petitioner
Applicant

Versus

Devika Soni, W/o. Pramod Soni, aged about 26 years, R/o. Through Bhuwan Lal Soni Lord Shiv Mandir Gali Shivpara, Durg (Chhattisgarh)

---Respondent

For petitioner	:	Shri Avinash Chand Sahu, Advocate.
For respondent	:	None

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

26.11.2018

1. The petitioner herein filed a divorce petition against his wife before the Principal Judge, Family Court, Durg on 03.04.2013. Finding delay in conclusion of the said divorce proceedings, he filed writ petition W.P.(227) 460 of 2017 for expediting the divorce proceedings. This Court by order dated 10.07.2017 directed the said Family Court to decide the divorce petition expeditiously in accordance with law. Certified copy of the order of this court was produced before the Family Court on 24.07.2017, but the matter was adjourned routinely from time to time by the said court and no substantial progress was made in the trial, then the petitioner has again approached this court by filing this writ petition on 08.10.2018 to direct the Family Court to expedite the trial and conclude it within the stipulated time.

2. This Court on 27.10.2018 finding there is no requisite progress in divorce proceedings, despite order of this court, passed order as under:-

“It appears from the record that Presiding Officers Smt. Neeta Yadav and Shri Yashwant Washnikar have not taken due care in disposing of the case despite direction of this Court to decide the petition expeditiously though no time limit was fixed by this Court for disposing of the divorce petition. The divorce petition is pending for last five years, the Family Court could have decided it expeditiously, but it conveniently granted and adjourned time to time giving more than required time to the parties flouting the order of this Court, which is unacceptable to this Court, as this writ petition has been filed stating that despite order of this Court, the Family Court is not proceeding with the matter.

Notice be issued to Smt. Neeta Yadave, then Principal Judge, Family Court, Durg to her present place of posting and Shri Yashwant Washnikar, First Additional Principal Judge, Family Court, Durg as to why appropriate proceedings be not initiated against them for non-compliance of order of this Court dated 10.07.2017. Notice be issued from Court side through e-mail and fax.”

3. Both the Presiding Officers have sent their explanation. But from the perusal of the explanation, it appears that same is far from satisfaction and the explanation given by them cannot be accepted, as by ignoring the order of this Court they have routinely adjourned the civil suit granting time as per convenience of parties and did not take effective steps to expedite the trial of suit, which cannot be countenanced as the writ petition has been filed stating that despite order of this Court, the Family Court is not proceeding with the matter.

4. At this stage, the attention of learned Principal Judge, Family Court is invited to the binding observation of the Supreme Court rendered in the matter of **Bhuwan**

Mohan Singh v. Meena and others¹, which states as under:-

“13.It is unfortunate that the case continued for nine years before the Family Court. It has come to the notice of the Court that on certain occasions the Family Courts have been granting adjournments in a routine manner as a consequence of which both the parties suffer or, on

1 (2015) 6 SCC 353

certain occasions, the wife becomes the worst victim. When such a situation occurs, the purpose of the law gets totally atrophied. The Family Judge is expected to be sensitive to the issues, for he is dealing with extremely delicate and sensitive issues pertaining to the marriage and issues ancillary thereto. When we say this, we do not mean that the Family Courts should show undue haste or impatience, but there is a distinction between impatience and to be wisely anxious and conscious about dealing with a situation. A Family Court Judge should remember that the procrastination is the greatest assassin of the lis before it. It not only gives rise to more family problems but also gradually builds unthinkable and Everestine bitterness. It leads to the cold refrigeration of the hidden feelings, if still left. The delineation of the lis by the Family Judge must reveal the awareness and balance. Dilatory tactics by any of the parties has to be sternly dealt with, for the Family Court Judge has to be alive to the fact that the list before him pertains to emotional fragmentation and delay can feed it to grow. We hope and trust that the Family Court Judges shall remain alert to this and decide the matters as expeditiously as possible keeping in view the Objects and Reasons of the Act and the scheme of various provisions pertaining to grant of maintenance, divorce, custody of child, property disputes, etc.”

5. However, considering the facts of the case and the binding observation of Supreme Court in the matter of **Bhuwan Mohan Singh** (supra) and further considering the fact that the petitioner’s divorce petition is pending for more than five years i.e. since 03.04.2013, the said court is directed to conclude the trial expeditiously preferably by 28th February, 2019 in accordance with law.

6. A copy of the order be sent to the 1st Additional Principal Judge, Family Court, Durg for compliance and needful.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-