

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 277 of 2018

- Sanjay Murlidhar Dubey, S/o Murlidhar Dubey, Aged About 25 Years, R/o C/21, New Maruti Dham Chs Ltd. Anand Nagar, Near K. T. Vision Cinema, Vasai Road (West) Palghar - 401202

---- Petitioner

Versus

- Smt. Divya Sanjay Dubey W/o Sanjay Murlidhar Dubey Aged About 23 Years R/o Qr. No.10/B, Street No.8, Sector No. 5, Bhilai Nagar, Tahsil Durg District Durg Chhattisgarh - 490006

---- Respondent

For Appellant

Shri Shrijan Shukla, Advocate

Hon'ble Justice Mr. Prashant Kumar Mishra

Hon'ble Justice Mrs. Vimla Singh Kapoor

Order On Board

06/12/2018

1. This appeal is directed against the order passed by the Family Court dismissing the suit for the reason that the appellant has failed to appear to press his suit and participate in the counselling. The suit appears to have been dismissed under Order 17 Rule 3 of CPC for the reason that from 20.08.2018 onwards the appellant failed to appear before the Family Court on five consecutive dates despite direction and warning by the Court that if he fails to appear, adverse action will be taken against him.
2. Considering the fact that the issue pertains to matrimonial dispute between the parties and on the date of hearing when the suit has

been dismissed, the appellant had raised plea of the illness of his father, ends of justice would be served if the impugned order is set aside and the matter is remitted back to the Family Court for decision afresh on payment of cost of Rs.50,000/- by the appellant to the respondent wife within a period of one month. The appellant shall appear before the Trial Court on 07.01.2019. The Trial Court shall thereafter decide the matter within next 2 months.

3. The appeal stands allowed to the extent indicated above.

Sd/-

Prashant Kumar Mishra
Judge

Sd/-

Vimla Singh Kapoor
Judge

Nirala