

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****FAM No. 28 of 2018**

- Smt. Lata Yadav W/o Late Shri Arun Kumar Yadav Aged About 21 Years R/o Vikas Nagar Kusmunda, Tahsil Katghora, District- Korba, Chhattisgarh.

---- Petitioner**Versus**

1. Smt. Nirmla Devi W/o Late Shri Mansa Ram Yadav Aged About 51 Years R/o Village Naraibodh, Tahsil Katghora, District- Korba, Chhattisgarh
2. General Manager SECL, Surakachhar, Balgi, Sub Area Tahsil Katghora, District- Korba, Chhattisgarh.
3. Public In All

---- Respondent

For Petitioner	Mr. Chandresh Shrivastava, Advocate
For Respondent No.1	Mr. Pawan Kesharwani, Advocate
For Respondent No.2	Mr. Vinod Deshmukh, Advocate

DB.:Hon'ble Mr. Prashant Kumar Mishra, Ag. C.J. &**Hon'ble Mr. Parth Prateem Sahu, J.****Order On Board By****Prashant Kumar Mishra, Ag. C.J.****28/3/2019**

1. Heard.
2. The appellant's suit has been dismissed by the Family Court holding that a suit for declaration of marital status is not maintainable, when there is no dispute between the appellant

and her mother-in-law respondent No.1 Smt. Nirmla Devi.

3. The appellant was married to Arun Kumar Yadav, S/o respondent No.1-Nirmla Devi on 1.4.2012. The said Arun Kumar Yadav died on 13.4.2012 barely after 12 days of the marriage. In the service record of Arun Kumar Yadav, the name of her mother (respondent No.1-Smt. Nirmla Bai) was recorded as nominee. After the death of Arun Kumar Yadav, the appellant moved an application for issuance of Succession Certificate, which was allowed partly holding that the appellant and respondent No.1 Nirmla Devi are entitled to 50% each of the amount lying in the service account of deceased Arun Kumar Yadav.
4. The appellant thereafter moved an application for grant of compassionate appointment, on which, respondent No.2 informed her that she is required to obtain a declaration from the competent jurisdictional Court that she is legally wedded wife of Arun Kumar Yadav.
5. The trial Court dismissed the suit on preliminary objection that there being no dispute amongst the family members i.e. the appellant and respondent No.1, a suit for declaration of marital status is not maintainable merely because respondent No.2 directed her to seek such declaration.
6. The issue as to the maintainability of a suit in the Family Court for declaration of marital status is no longer *res integra* in view

of the judgment rendered by the Supreme Court in the matter of **Balram Yadav Vs. Fulamaniya Yadav, AIR 2016 SC 2161**, holding that under Section 7(1) Explanation (b), a suit or a proceeding for a declaration as to the validity of both marriage and matrimonial status of a person is within the exclusive jurisdiction of the Family Court, since under Section 8, all those jurisdictions covered under Section 7 are excluded from the purview of the jurisdiction of the Civil Courts.

7. Following the law laid down by the Supreme Court in the matter of **Balram Yadav (supra)**, this Court in the matter of **Shikha Majumdar and another Vs. Anutosh Majumdar, 2017(3) CGLJ1:MANU/CG/0109/2017**, in which, one of us (Prashant Kumar Mishra, J.) was a member, has also held that a suit for declaration of marital status of the parties is maintainable before the Family Court.
8. In view of the above, we are inclined to allow this appeal at the motion stage itself. The impugned judgment passed by the trial Court dismissing the suit, is set-aside. The matter is remitted back to the trial Court for decision afresh on merits. The record of the trial Court be sent back forthwith. All the parties shall appear before the trial Court **on 29.4.2019**.

Sd/-

(Prashant Kumar Mishra)

Ag. Chief Justice

Sd/-

(Parth Prateem Sahu)

Judge