

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.230 of 2019****Order reserved on :15.05.2019****Order delivered on: 17.05.2019**

Tripesh Kumar Sharma S/o. Shri Shankar Lal Sharma, aged about 39 years, R/o. Kayastha Para Behind, Panchmukhi Hanuman Temple District Durg (CG) Pin 491001

---- Petitioner**Versus**

1. Smt. Priyanka Sharma W/o. Tripesh Kumar Sharma, D/o Dinesh Tiwari, aged about 34 years, R/o. Kashyap Colony, Street No.3 Old Bus Stand District Bilaspur (CG) Pin-495001
2. Ku. Tanishi Sharma, D/o. Tripesh Kumar Sharma, aged about 7 years, Minor through her Mother, Priyanka Sharma, W/o. Tripesh Kumar Sharma, D/o. Dinesh Tiwari, R/o. Kashyap Colony, Street No.3 Old Bus Stand District Bilaspur (CG) Pin-495001

---- Respondents

For Petitioner/Plaintiff	:	Tripesh Kumar Sharma in person
For Respondents/Defendants	:	Mr.Dheerendra Pandey, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**C.A.V. Order**

1. The petitioner/plaintiff & respondent No.1/defendant No.1 are husband & wife and respondent No.2/defendant No.2 is their minor daughter. The dispute relates to custody of their daughter/respondent No.2, for which the petitioner/plaintiff has filed an application under Section 10 of the Guardians and Wards Act, 1890 (hereinafter called as "the Act of 1890"), which is pending consideration before the Family Court, Bilaspur since 27.8.2016. In the meanwhile, interim order dated 25.1.2017 and 12.12.2017 are said to have been passed to facilitate the petitioner herein to meet

his daughter/respondent No.2. During the pendency of that application, the petitioner herein filed an application for shared parenting plan to stay with his daughter, which was rejected by the Family Court, Bilaspur by the impugned order holding that serious dispute is pending between the parties with regard to custody of their daughter. Questioning that order, this writ petition has been filed by the petitioner herein.

2. Tripesh Kumar Sharma, petitioner-in-person would submit that merely because dispute is pending between the parties for custody of their daughter/respondent No.2, application for shared parenting plan cannot be rejected, as such, the impugned order passed by the Family Court deserves to be set aside.
3. On the other hand, Mr.Dheerendra Pandey, learned counsel for the respondents, would support the imputed order.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the records with utmost circumspection.
5. Substantive application for custody of respondent No.2 is pending consideration since 27.8.2016 before the Family Court, Bilaspur. During pendency of that proceeding, application for shared parenting plan was filed by the petitioner herein, which was rejected by the Family Court on 7.12.2018 and the petitioner has filed this writ petition after four months of that order. Since serious dispute not only with regard to custody but other proceedings including divorce proceeding are also pending consideration between the

parties with bitterness and application for custody of respondent No.2 is also pending consideration since last more than three years, therefore, in this factual backdrop, I do not find any good ground to interfere with the impugned order. However, the Family Court, Bilaspur is directed to conclude the hearing of the application under Section 10 of the Act of 1890 on or before 9th August, 2019 and decide the matter finally before that date after hearing the parties and giving opportunity of being heard.

6. With the aforesaid observation, the writ petition finally stands disposed of.

Sd/-

(Sanjay K.Agrawal)
Judge

B/-