

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 78 of 2019

- Debojeet Guha S/o Bholu Nath Guha Aged About 34 Years
Occupation Service, Office Address Government Sevak
Vigyani, Rajya Nyayik Vigyani Prayogshala, Chhattisgarh
Raipur, R/o Plot No. 7, (Private), Khasra No. 138/4, Maitri
Kunj, Risali (Near The Ahirwad Bhawan) Bhilai, Tahsil And
District Durg Chhattisgarh.

---- Petitioner

Versus

- Smt. Soma Guha W/o Debojeet Guha Aged About 29 Years
At Present R/o M.I.G. 1/297, Hudco Bhilai, Tahsil And District
Durg Chhattisgarh.

---- Respondent

For Appellant :- Shri Rajesh Kumar Sharma, Advocate

Hon'ble Shri Prashant Kumar Mishra, Ag. CJ

Hon'ble Shri Parth Prateem Sahu, J.

Judgment on Board

By

Shri Prashant Kumar Mishra, Ag. CJ

28/03/2019

1. The trial Court has dismissed appellant's application under
Section 9 of the Hindu Marriage Act, 1955 for restitution of
conjugal rights.

2. The application was filed on submission that the respondent-wife is not joining the company of the appellant to maintain marital relations without any justifiable cause, therefore, the appellant is entitled to decree of restitution of conjugal rights.
3. Admittedly the trial Court has allowed respondent's-wife application under Section 13 of the Hindu Marriage Act, 1955 in Civil Suit No.740A/2014 decided on 17.11.2014 on the findings that the appellant is guilty of committing mental cruelty to the respondent-wife. Thus, once the appellant has been found to be inflicting mental cruelty on the respondent she is fully justified in not joining the company of the appellant. The trial Court has not committed any illegality in dismissing the suit for restitution of conjugal rights.
4. In view of the findings of commission of cruelty by the appellant on the respondent-wife, there is no substance in this appeal and accordingly the appeal is liable to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge