

HIGH COURT OF CHHATTISGARH, BILASPUR

First Appeal (M) No. 86 of 2019

- Smt. Mamta Kayarkar, W/o Shri Dipak Kayarkar, aged About 36 Years, R/o Plot No. 4 Surya Vihar Colony, Triveni Nagar (East), Near Apollo Hospital, Bhilai, Tahsil and District Durg Chhattisgarh. ----- **Appellant**

Versus

- Dipak Kayarkar, S/o Late Shankar Narayan, aged About 39 Years, R/o Shastri Chowk, Tulsipur Ward No. 18, Rajnandgaon, Tahsil and District Rajnandgaon Chhattisgarh ----- **Respondent**

For the Appellant	:-	Mr. Vivek Shrivastava, Advocate
For the Respondent	:-	Mr. Aditya Bhardwaj, Advocate on behalf of Mr. Shaleen Singh Baghel, Advocate.

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board by Justice Manindra Mohan Shrivastava J.

20.08.2019

1. This appeal is directed against impugned judgment and decree dated 28.01.2019 passed by the Family Court, Rajnandgaon in Civil Suit No.108A/2016 (Dipak Kayarkar Versus Smt. Mamta Kayarkar).

2. Though number of grounds have been urged in this appeal, it is undisputed that in TPC No.36 of 2018 (Smt. Mamta Kayarkar Versus Dipak Kayarkar) this Court had passed interim order on 14.05.2018 that no final order shall be passed in Civil Suit No.108A/2016 pending before the Family Court, Rajnandgaon till the next date of hearing. However, during pendency of the aforesaid case while interim order dated 14.05.2018 was operative

and in force, learned Family Court proceeded to pass the final order. Order is, therefore, nullity as it was passed in violation of interim order passed by this Court in TPC No.36/2018. Therefore, only on this ground, we are inclined to set aside the impugned judgment and decree, and we do so. The case is remanded to the learned trial Court/Family Court for being decided afresh. As long as the interim order dated 14.05.2018 is in operation, the Family Court shall not proceed with the matter. Further proceedings in the case shall obviously depend upon the final decision of TPC No.36/2018 pending before this Court.

3. It is made clear that we have not commented upon the merits of the contempt petition or any other proceedings.

Sd/-

(Manindra Mohan Shrivastava)

Judge

Sd/-

(Vimla Singh Kapoor)

Judge

Ajay