

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 63 of 2015

Jagdev Sahu S/o. Late Shobha Ram Sahu, Aged about 60 years,
R/o. Village Borjhara, P.O.Korra, Police Station Bhakhara and Tahsil
Kurud, District Dhamtari (C.G.)

---- Appellant

Versus

Smt. Nandni Sahu W/o. Late Tukeshwar Sahu, Aged about 28
years, R/o. Village Sanjay Nagar, Ward No.1, Kurud, Tehsil Kurud,
District Dhamtari (C.G.)

---- Respondent

For the Appellant :- Mr. Arun Kumar Shukla, Advocate
For the Respondent :- Mr. Shivendu Pandya, Advocate

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

Judgement on Board By
Manindra Mohan Shrivastava, J.

16.09.2019

1. The appellant filed an appeal against the judgment and decree dated 22.04.2015 passed in Civil Suit No. 15-A/2013, by the Family Court, Dhamtari, by which the Family Court awarded maintenance of Rs. 2000/- per month to respondent- daughter-in-law subject to the condition that if the respondent remarriage, the appellant liability shall cease to have any effect.

2. When the case was taken up for hearing on 07.09.2017, by the coordinate Bench of this High Court, noticing that despite specific objection taken by the appellant in the written statement that the respondent-daughter-in-law, having already remarried, no liability could be fastened on the appellant-father-in-law, to make payment of maintenance, set aside the judgment and decree impugned in this appeal and the matter was partly remanded to the trial Court for framing and deciding the issue regarding respondent remarriage with Radheshyam Sahu and her consequent dis-entitlement to receive the maintenance in view of the express bar under Section 19 (2) of the Hindu Adoption and Maintenance Act, 1956.
3. In compliance of the direction, learned trial Court vide his order dated 07.02.2018 has returned a finding on an issue as to whether the respondent, upon re-marriage with Radheshyam Sahu is dis-entitlement to seek any maintenance from the appellant-father-in-law, as provided under Section 19(2) of the Act of 1956.
4. Learned counsel for the appellant would argue that learned trial Court has recorded specific finding that the respondent was remarried to Radheyshyam Sahu on the basis of the reliable evidence of office bearers of the community to which both belonged to. He would also submit that the respondent and Radheshyam Sahu, in community meeting, have also admitted that they performed marriage. This aspect has been considered in detail by the learned trial Court and relying upon

overwhelming evidence of the witnesses, a clear finding has been recorded.

5. Counsel for the respondent would submit that learned trial Court has not considered whether the subsequent marriage in *Chudi* form was valid or not. He would submit that the evidence led by the appellant with regard to marriage is liable to be disbelieved because the office bearers of the community who have deposed, have not clearly stated that marriage was duly solemnized by the respondent with Radheyshyam Sahu and only on the basis that a marriage in *Chudi* form was solemnized, learned trial Court has recorded a finding that the respondent having performed second marriage, dis-entitled herself to get maintenance from her father-in-law.
6. We have heard learned counsel for the parties and gone through the finding recorded by the learned trial Court. Learned trial Court has taken into consideration the evidence of Jagdev Sahu, the appellant, Ganeshram Sahu, president of the community, Chetanlal Sahu another office bearer of the same community, Smt. Kusum Lata Sahu, Adhyaksh of Mahila Prakostha of the community to come to conclusion that the respondent performed marriage with Radheyshyam Sahu. The witnesses have clearly deposed that when in the community meeting the respondent and Radheyshyam Sahu admitted their longstanding relation, the committee advised them that they should perform marriage whereupon, Radheyshyam Sahu

performed marriage in *Chudi* form in presence of the member of the community.

7. The learned trial Court relaying upon the judgment of this Court in the case of **Meera Bai @ Kachra Bai v. Dogar Ram 2017(1) CGLJ 122, Smt. Motimbai Borkar v. Arjun Singh Borkar 2017 (2) CGLJ 330, Shatrughan Mandavi v. Suriti Bai 2015(1) CDHC 327 (M.P.), Sumitra v. Bhikan AIR 1985 SC 765** has come to the conclusion that the marriage solemnized between the respondent and Radheyshyam Sahu is valid.
8. Apparently, in view of the provisions contained in section 19 (2) of the Act, upon remarriage, the respondent is dis-entitled to get any maintenance from the appellant-father-in-law. The application of the respondent, therefore, has to be rejected and is accordingly rejected. No further orders are required to be passed as the impugned judgment has already been set aside. The appeal is finally disposed off. Appellate decree shall be drawn to the effect that the appeal is allowed and the application for grant of maintenance filed by the respondent is rejected.

Sd/-

Manindra Mohan Shrivastava
Judge

Sd/-

Vimla Singh Kapoor
Judge