

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No.259 of 2019**

- Smt. Manju Yadu @ Sitakashi Yadu W/o Shri Chandra Bhan Yadu (S/o Late Ram Kumar Yadav), Aged About - 24 Years, R/o Chandidih Ramayan Chowk Melpara, Bilaspur, Police Station - Bilaspur, Tehsil And District - Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner**Versus**

- Surendra Yadav Shri Daduram Yadav Aged About 26 Years R/o Village - Bartori, Police Station Bilha, Tehsil And District - Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

For Appellant : Ms. Upasana Mehta, Advocate

D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board**Per Manindra Mohan Shrivastava, J.****09/12/2019**

Heard on admission.

1. Learned counsel for the appellant would argue that the learned trial Court committed serious illegality in passing decree of nullity of marriage on the ground that there was no valid divorce. He would further submit that the appellant has not only pleaded but also led specific evidence of divorce by customary practices between the appellant and her erstwhile husband.
2. We have gone through the records, pleadings, evidence and the impugned judgment of the learned trial Court.
3. The plaintiff's suit is based mainly on the ground that there was no valid divorce between the defendant and her erstwhile husband. The defendant

admitted that she was first married to Chandra Bhan. Having admitted that the marriage with the plaintiff was second one, during life time of -Chandra Bhan, burden was on the appellant-defendant to prove by leading clinching evidence of there being a valid divorce between the appellant and Chandra Bhan. However, we find that neither in the pleadings nor in the evidence, no material has been led to prove that the manner, in which, the parties had separated from each other, constituted valid divorce under a custom prevalent in the community of the appellant and Chandra Bhan. Only factum of divorce has been led in evidence that the deed of divorce was prepared. Even that is accepted, in the absence of there being any specific evidence, much less any iota of evidence of proof of custom, the finding of the learned trial Court that there was no valid divorce between the appellant and her husband-Chandra Bhan, does not require any interference.

4. In the result, this appeal stands dismissed.

SD/-
(Manindra Mohan Shrivastava)
Judge

SD/-
(Vimla Singh Kapoor_)
Judge