

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 246 of 2018

Laxmi Narayan Sharma S/o Late Seetaram Sharma Aged About 36 Years R/o Naya Power, Behind Of Sub Station, Near Water Tank, Dewri Khurd Bilaspur, Police Station Torwa, Tahsil And District (Revenue And Civil) Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Appellant

Versus

Smt. Neetu Sharma W/o Laxmi Narayan Sharma D/o S.N. Dubey, R/o Near Gram Panchayat Bhawan, Dewri Khurd, Bilaspur, Police Station Torwa, Tahsil And District (Revenue Civil) Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

For Appellant	:	Shri Anand Kesharwani, Advocate
For Respondent	:	Shri Ashutosh Mishra, Advocate.

**D.B. :Hon'ble Mr. Justice Manindra Mohan Shrivastava &
Hon'ble Mrs. Justice Vimla Singh Kapoor**

Order On Board

26/11/2019

1. This appeal is directed against the judgment and decree dated 26.2.2018 passed by learned Additional Principal Judge, Family Court, Bilaspur in Civil Suit No.201-A/2016.
2. The main ground to assail legality and validity of the judgment is that the learned Court below has granted decree of divorce taking into consideration the evidence and records of another case.
3. We find that the learned Court below, while considering as to whether the respondent-wife made out a case for grant of decree of divorce, has considered application, contents of pleadings and the evidence led by one Krishna Kumar Sahu, Vinod Kumar Sahu and Rameshwari Sahu. The consideration in paragraph 8 to 18 of the impugned judgment reveal that learned Family Court has taken into consideration the material, pleadings

and evidence of some other case and not of the present case and on the basis of consideration of the evidence of other case has passed the judgment and decree of divorce in the present case. The order is wholly unsustainable and it appears to be an outcome of complete non-application of mind to the pleadings and evidence led by the parties in the present case.

4. Only on the aforesaid ground, the aforesaid judgment and decree is found to be unsustainable in law and is therefore set aside.
5. The case is remanded to the trial Court to rehear the parties and decide the case afresh on the basis of the pleadings and evidence led by the parties in the case.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge