

HIGH COURT OF CHHATTISGARH, BILASPUR**FA(MAT) No. 58 of 2020**

- Smt. Neelema Upadhyay Widow Of Sudhir Upadhyay Aged About 41 Years At Present Resident Of Omnagar, Jarhabhata Civil Line Bilaspur, District- Bilaspur, Chhattisgarh

---- Appellant**Versus**

- Shri Krishna Kumar Upadhyaya, S/o Late Shri Khamhan Prasad Upadhyay R/o Purani Basti Ranipara Janjgir, District - Janjgir-Champa, Chhattisgarh.

--- Respondent

For Appellant : Mr. Ashutosh Tiwari, Advocate.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****25/02/2020**

1. Heard on admission.
2. The learned Family Court vide impugned order has rejected application under Section 27 of the Hindu Marriage Act filed by appellant-wife for return of *Stridhan* against her father-in-law. The Family Court has rejected the application holding that it has no jurisdiction and further that no cause of action arose. Not only that, the Family Court, after having recorded a finding that it has no jurisdiction, has also proceeded to decide the matter on merits.
3. Learned counsel for the appellant would firstly argue that the learned Family Court would have jurisdiction to decide the application under Section 27 of the Hindu Marriage Act notwithstanding that the relief was sought not against the husband but against the father-in-law. He would submit that as appellant's husband died, there is no remedy except to file application against the father-in-law. The next submission is that even if it is accepted that learned Family Court has no jurisdiction, the other finding that there is no cause of action, are void ab initio.

4. We have heard learned counsel for the appellant.
5. As far as finding recorded in para-12 of the order that the learned Family Court has no jurisdiction, does not suffer from any illegality, in view of provision contained in Section 7 of the Family Courts Act. Family Court exercises jurisdiction as conferred on it under Section 7 of the Family Courts Act. Having gone through various clauses under the explanation appended to Section 7 (1) of the Act, we do not find that an application of the appellant for return of *Stridhan* against her father-in-law would be maintainable before the Family Court. That is the view taken by this Court in the case of **Neel Kanth Jaiswal Vs. Smt. Manju Lata Jaiswal, AIR 2011 C.G. 6** as also Andhra Pradesh High Court reported in the case of **P. Srihari Vs. P. Sukunda and Another, 2001 C.J. (A.P.) 1157**. Therefore, the finding of the learned Family Court that it has no jurisdiction to decide appellant's application is in accordance with law.
6. However, having held so, the Family Court has no jurisdiction to enter into any other aspect of matter on merits including the issue as to whether or not there arose any cause of action for the appellant to move such application for *Stridhan* against her father-in-law. All such findings which have been recorded by the Family Court are void ab initio and therefore, set aside.
7. Though we hold that the learned Family Court has no jurisdiction, the findings on merits shall not come in the way of the appellant in taking recourse to remedy as may be available to the appellant under the law before the appropriate forum.
8. In the result, the appeal is partly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge