

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 608 of 2019

- Vijay Dwivedi S/o Udaybhan Dwivedi, Aged About 38 Years, Occupation Advocate, R/o Subhash Nagar, Sidhi Tehsil And District Sidhi Madhya Pradesh. Second Address: District Bar Association Tehsil and District Sidhi Madhya Pradesh., District : Sidhi, Madhya Pradesh

---- Applicant

Versus

1. Smt. Kavita Nayak Dwivedi W/o Vijay Dwivedi, Aged About 32 Years, R/o Petrol Pump Gulab Nagar, Mopka, Police Station Sarkanda, Tehsil And District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Vasu Dwivedi S/o Vijay Dwivedi Aged About 6 Years Through It's natural guardian Smt. Kavita Nayak Dwivedi R/o Petrol Pump Gulab Nagar, Mopka, Police Station Sarkanda, Tehsil and District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondents

For Applicant : Shri Manish Nigam, Advocate.

For Respondents – Shri Alok Bakshi, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

09/03/2020

1. This criminal revision is directed against the order dated 29-02-2016 passed ex-parte in Misc. Criminal MJC No.474/2015 by the Family Court Bilaspur, Chhattisgarh in favour of the respondents granting them maintenance of Rs.4500/- per month.
2. It is submitted that the applicant was never served with a notice of the said proceeding and the order sheet dated 17-11-2015 itself reflects that there had been no service of ordinary notice upon the applicant and the ex-parte proceeding were drawn on the same day on the basis, that acknowledgment has been received regarding service of postal summons to the applicant, is erroneous. The copies of the acknowledgements which are attached in the record of

the case itself shows that there is no postal seal on the same, therefore, the service that has been made through the postal department again becomes disputed. Hence, it shows that the applicant has been denied opportunity to contest the proceeding against him. Therefore, it is prayed that this revision petition be admitted and relief be granted to the applicant.

3. Learned counsel for the respondents opposes the submission made by learned counsel for the applicant and submits that the service of postal summons upon the applicant had been proper, as it is signed by him, therefore, at this stage he cannot denied the same and make a ground for this revision petition. Therefore, it is prayed that this revision petition is without any substance which may be dismissed.
4. In reply, it is submitted by learned counsel for the applicant that the applicant denies the signature on the said acknowledgment receipts, which are part of the record and prays that if necessary that may be inquired into.
5. Heard learned counsel for the parties and perused the record.
6. On perusal of the documents present in the record which is present before this Court, it is found that no ordinary summons have been served upon the applicant and similarly the acknowledgments which have been formed basis of the ex-parte proceeding against the applicant does not bear the seal of the postal department. Hence, the ground raised by the applicant cannot be lightly brushed aside and there appears to be substance in the same. Therefore, this revision petition is disposed off at motion stage. The impugned ex-parte order is set aside and the case is remanded back to the

Family Court with a direction to afford opportunity of hearing to the parties and pass order in accordance with law. Looking to the delay that has already occurred so for it is also ordered that this proceeding be concluded by the Family Court preferably within a period of three months from the date of appearance of the parties.

7. Both the parties are directed to give their appearance before the Family Court on 23rd of March, 2020.

Sd/-

(Rajendra Chandra Singh Samant)
Judge