

HIGH COURT OF CHHATTISGARH, BILASPUR
WP227 No. 412 of 2021

- Gundeep Singh, S/o Shri Gurendra Pal Singh Juneja, Aged About 34 Years R/o House No. 10, Amaltash Classic, Sales Tax Colony, Khamhardih, Raipur, Tehsil and District Raipur (C.G.), Present Address - 39 Upham ST, apt3, Malden, MA, 02148 USA, Through - Special Power of Attorney Holder, Onkar Singh Juneja, S/o Shri Gurendra Pal Singh Juneja, Aged About 29 Years, R/o House No. 10, Amaltash Classic, Sales Tax Colony, Khamhardih, Raipur, Tehsil and District Raipur Chhattisgarh.

---- Petitioner

Versus

- Smt. Gurpreet Kaur, W/o Shri Gundeep Singh, aged about 32 Years R/o B Wing, House No. 1003, Ever Sign Cosmic, Behram Baug, Andheri West, Mumbai (Maharashtra).

---- Respondent

For Petitioner : Mr. C. Jayant K. Rao, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/08/2021

1. This petition under Article 227 of the Constitution of India has been brought being aggrieved by the order dated 19.07.2021 passed by Principal Judge Family Court, Raipur in unregistered case between the parties in this petition.
2. Learned counsel for the petitioner submitted that an application under Section 13B of the Hindu Marriage Act was filed by the petitioner through his power of attorney holder Onkar Singh Juneja. The application and the affidavit filed is signed and verified by the attorney Onkar Singh Juneja. The learned Family Court has for the reason that the application is not signed by the applicant himself refused to register

the case and directed the presence of applicant.

3. It is submitted by the counsel for petitioner that the attorney Onkar Singh Juneja has been validly made attorney by the applicant by a special power of attorney executed before Notary to Public, Commonwealth of Massachusetts, USA. The applicant is at present unable to come to India and appear before the Court because of the continuation of the pandemic situation and the difficulties in completing the formality for visa from the authority concerned, hence, the learned Family Court should have registered the application. It is submitted that whenever the personal appearance of the applicant shall be required, he shall appear before the Court, therefore, the learned Family Court be directed to register the case and initiate the proceeding in accordance with law.
4. I have heard the party and perused the documents on record.
5. Considered on the submissions. A person has a right to be represented through his attorney and the power of attorney can be validly created under the Powers of Attornies Act, 1882. Order 3 Rule 1 CPC permits for appearance, for filing an application and for acting on behalf of the parties through the recognized agent. The recognized agent is defined in Rule 2 Order III Code of Civil Procedure according to which persons holding Powers-of-Attorney, authorizing them to make and do such appearances file, applications and act on behalf of such parties; Therefore, presenting an application by the attorney of the applicant is not barred by any law. The personal appearance of the applicant in person may be required during the proceeding of this case and in that case the appearance of the power of attorney holder would not be acceptable to the Court. Therefore, there is no hindrance for the

learned Family Court to register the application filed and proceed in the same in accordance with law.

6. The petition is disposed off at motion stage. The learned Family Court is directed to register the application filed by the applicant and initiate proceeding in the case in accordance with law. The learned Family Court has the authority to direct personal appearance of the applicant at specific stage of the proceeding when his personal appearance cannot be dispensed with.
7. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha