

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**MATA No. 136 of 2022**

***Maninder Kaur Dhillon*** ..... ***Appellant***  
Mr. A. Tripathy, Advocate  
**-versus-**

***Deep Karan Singh*** ..... ***Respondent***

**CORAM:**  
**JUSTICE S. TALAPATRA**  
**JUSTICE SAVITRI RATHO**

**ORDER**  
**26.10.2022**

**Order No.**  
**04.**

1. This matter is taken up through hybrid mode.
2. Heard Mr. G. Mukherji, learned Senior Counsel appearing for the Appellant and also heard Ms. S. Mohanty, learned counsel appearing for the Respondent.
3. By means of this appeal filed under Section 19(1) of the Family Courts Act, 1984, the judgment dated 11.02.2022, as delivered in Civil Proceeding No.56 of 2020, by the Judge, Family Court, Jagatsinghpur has been challenged.
4. Mr. Mukherji, learned Senior Counsel has pointed out that the judgment has been passed ex parte. The notice of the matrimonial suit was not served on the Appellant, who was the respondent in the said Civil Proceeding. Initially, the notice was sent by inserting wrong name and address. The notice could not be served for that reason. The Respondent herein took steps to cause the substituted service by publishing the notice in a Newspaper. In terms of Order 5, Rule 20 of the

C.P.C. the notice in a substituted service has to be published in a Newspaper, which has adequate circulation in the area where the person on whom the said notice was to be served had last resided. Mr. Mukherji, learned Senior Counsel has pointed out that though the Appellant (the Respondent in the Civil Proceeding) is a resident of Paschim Bardhaman West Bengal, the notice was published in an English daily, published from Bhubaneswar. As such, the said notice was never known to the Appellant. In this process, the Appellant has lost her valuable right to contest the allegation made by the Respondent in the matrimonial suit. All these allegations according to the Appellant are fabricated and frivolous. For the reason, it cannot be said to be the compliance of Order 5, Rule 20 of the C.P.C. as Bhubaneswar Edition of the Times of India cannot have any circulation at Paschim Bardhaman.

5. Ms. S. Mohanty, learned counsel appearing for the Respondent has submitted that, the substituted service as caused by the Respondent has been accepted by the Judge, Family Court. It has to be inferred therefore that, there was adequate compliance of Order 5 Rule 20 of the C.P.C. in causing the substituted service. We are unable to accept that plea when on scrutiny it appeared before us that first wrong name and address were used for delivering the registered letter, which contained the notice of the Civil Proceeding and later on, the notice, by way of the substituted service was published in Bhubaneswar edition of the Times of India

(Ext.1). Thus, there had been no compliance of Order 5, Rule 20 of the C.P.C. As such, there was no service of notice on the Appellant. In our considered view, the impugned judgment dated 11.02.2022, Annexure-2 to the memorandum of appeal cannot survive as there had been no legal service and is liable to be set aside. Accordingly, we set aside the said judgment. We make it abundantly clear that, we have not expressed any opinion on the merit of the matrimonial suit. We remand the C.P. No.56 of 2020 to the court of Judge, Family Court, Jagatsinghpur for re-trial, from the stage of filing of the written statement. Since the parties are before us, we direct the parties to appear, in the court of Judge, Family Court, Jagatsinghpur on 14<sup>th</sup> December, 2022. For their appearance, no further notice will be issued by the Judge, Family Court, Jagatsinghpur. In view of our order, the service of notice on the Respondent in the Civil Proceeding be deemed to be complete. The Appellant shall file her written statement on that day before the Judge, Family Court, Jagatsinghpur. Thereafter, the Judge, Family Court, Jagatsinghpur shall proceed with the said Civil Proceeding in order to take it to its logical end, as expeditiously as possible, preferably within a period of eight months from 14.12.2022. As we have noticed, no physical records have been received, there is no question of sending down the LCRs. The Appellant is directed to produce the certified copy of this order in the Court of the Judge, Family Court, Jagatsinghpur. That apart, Registry shall send a

copy of this order to the Judge, Family Court, Jagatsinghpur for compliance.

6. In the result, the appeal is allowed.
7. Decree be drawn accordingly.
8. Urgent certified copy of this order be granted as per rules.

*Murmu*

