CGHC010267752026 2026:CGHC:43329-DB

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**FA(MAT) No. 234 of 2026**

**1 -** Shri Ram Kumar Vaishnav S/o Pila Das Vaishnav Aged About 72 Years R/o Vaishnav Para Ward No. 16, Village Dhourabhatha Post Bargada Tehsil - Saja District Bemetara Chhattisgarh

**2 -** Amit Kumar Vaishnav S/o Ram Kumar Vaishnav Aged About 46 Years R/o Vaishnav Para Ward No. 16, Village Dhourabhatha Post Bargada Tehsil - Saja District Bemetara Chhattisgarh

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**3 -** Shraddha Vaishnav D/o Ram Kumar Vaishnav Aged About 44 Years R/o Vaishnav Para Ward No. 16, Village Dhourabhatha Post Bargada Tehsil - Saja District Bemetara Chhattisgarh

**... Appellants/ Defendants**

**versus**

Pratibha Vaishnav W/o Late Ashish Vaishnav Aged About 47 Years R/o Krishna Nivas Near Mini Stadium Gate No. 2, Shikshak Nagar Durg Tehsil And District Durg Chhattisgarh (Plaintiff)

**... Respondent/ Plaintiff**

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| For Appellants | : | Shri B. L. Parakh, Advocate appears along with Shri Nikhil Parakh, Advocate and Ms. Mitisha Kotecha, Advocate |
| For Respondent | : | Shri Ratensh Kumar Agrawal, Advocate appears along with Shri Sourav Agrawal, Advocate. |

**DB: Hon'ble Shri Justice Parth Prateem Sahu &**
**Hon'ble Smt. Justice Sushma Sawant**
**Judgment on Board**

**06/10/2026**

1. This appeal has been filed under Section 19(1) of the Family Courts Act, 1984 challenging the order dated 15.05.2026 passed by First

Additional Principal Judge, Family Court, Durg in Civil MJC No.26/2026, whereby the application preferred by the defendants/appellants under Order VII Rule 11 read with Section 20 of Code of Civil Procedure (for short 'CPC') has been rejected.

2. The facts, in brief, are that the respondent/ plaintiff instituted Civil MJC No. 26/2026 before the Family Court, Durg under Sections 19 to 22 of the Hindu Adoptions and Maintenance Act, 1956, claiming maintenance of Rs.42,000/- per month from the appellants/defendants after the death of her husband, Late Ashish Vaishnav, on 18.08.2025. After their appearance, appellants filed an application under Order VII Rule 11 read with Section 20 CPC, raising objections regarding the maintainability of the proceedings, on the ground of territorial jurisdiction of the Family Court, and pendency of proceedings challenging the Will produced by respondent before the court at Bemetara. By order dated 15.05.2026, learned Family Court rejected the application, principally holding that the respondent / applicant is residing at Durg and therefore the application could not be rejected on the ground of jurisdiction. Aggrieved thereby, the appellants have preferred the present appeal.

3. Learned counsel for the appellants submits that defendant No.1 is father-in-law, defendant No.2 is brother-in-law and defendant No.3 is sister-in-law, who are appellants herein, are residents of District Bemetara. It is further submitted that the properties, which are mentioned in paragraph 8 of application stating that the defendants are in possession of the joint Hindu family property, are also situated at District Bemetara, and therefore, the application/suit filed by the

respondent herein/applicant under Section 19 to 22 of the Hindu Adoptions and Maintenance Act, 1956 (for short 'the Act, 1956') is not maintainable before the Family Court, Durg. He submits that for the purpose of deciding territorial jurisdiction to consider the application filed under Section 19 to 22 of the Act, 1956, provisions under Section 20 of CPC will be attracted and not by Section 19 of the Hindu Marriage Act, 1955. In support of his contention, learned counsel for the appellants has relied upon the decisions in ***Pankaj Sruyakant Lohar*** vs. ***Mayuri Pankaj Lohar***, [2002 LawSuit (Bom) 604] of the High Court of Bombay; ***Saroj Kalia*** vs. ***Lakhwinder Singh***, [AIR Online 2023 P&H 1553] of Punjab and Haryana High Court, ***Kanchana Rai; Uma Devi*** **vs.** ***Geeta Sharma & Ors.***, [2026 LawSuit(SC) 49; 2026 INSC 54] of Hon'ble Supreme Court of India, ***Geeta Rani, w/o Ram Pratap Goswami ; Manoj Goswami S/o Ram Pratap Goswami ; Samta Goswami W/o Manoj Goswami*** vs. ***Kavita Goswami D/o Sobhagmal Goswami; Rudraksh Goswami @ Dakshu Goswmai S/o Late Sunil Goswami,*** [2018 LawSuit (Raj) 1412] of High Court of Rajasthan (Jaipur Bench), ***Praveen Kumar Jain*** vs ***Anjali Jain***, [2017 LawSuit (Chh) 464] of High Court of Chhattisgarh, and ***Nasima Banu; M M Muneer Hussain*** **vs.** ***Shabas Khan; Jateen Taj; Fauziaa Khanum; Nazia Khanam***, [2023 LawSuit (Kar) 183] of High Court of Karnataka.

4. He further contended that as the father-in-law is alive and is one of the non-applicant before the Family Court, therefore, the application under other non-applicants is not maintainable. Learned Family Court committed an error in rejecting the application without appreciating the

pleadings made in the application and argument raised on the date of hearing.

5. Shri Agrawal, learned counsel appearing for the respondent would oppose the submission and submit that non-applicants/appellants herein have filed an application under Order VII Rule 11 of CPC with a prayer for dismissal of the suit on the ground of jurisdiction as pleaded therein. He contended that in paragraph 3 of the application, there is specific mention that all the immovable properties of defendant No.1 is situated at Village Dhaurabhata, Botka, Tehsil Saja and Thaankhamariya, District Bemetara, and therefore, the court at Durg is not having territorial jurisdiction, but there is no specific pleading demonstrating that no part of the cause of action arose within the territorial jurisdiction of the Family Court, Durg. He contended that even if the submission of counsel for the appellants is to be accepted with regard to the territorial jurisdiction the fact remains that the application is filed under Order VII Rule 11 read with Section 20 of CPC and therefore, the learned Family Court has rightly considered the parameters of order VII Rule 11 of CPC for dismissing the suit and in that provision there is no mention that the plaint can be rejected on the ground of jurisdiction, hence the learned Family Court has not committed any error in dismissing the application. He also submits that according to Section 19 of Hindu Marriage Act, the suit can be filed where the marriage was solemnized, they resided together lastly and one of the spouses (the plaintiff/respondent) filing application is residing presently within the territorial jurisdiction of the Court and therefore, application has rightly been filed before the Family Court, Durg.

6. We have heard learned counsel for the respective parties and perused the record.

7. The undisputed facts in this case are that the respondents/plaintiffs filed an application under Section 19 to 22 of the Act, 1956 on the ground that she is widow of late Ashish Vaishnav, the appellants/defendants therein are her father-in-law, brother-in-law and sister-in-law. In the application, there is specific pleading that his husband is having the immovable property recorded in his name individually, on which, the defendants/respondents are in possession and are cultivating two crops in a year and thereby earning from the property recorded in the name of her late husband. It is also pleaded that the respondents are having the joint hindu family property from which also they are having income. They are financially strong whereas she is not having any source of income. Her oral prayer for grant of maintenance was rejected by the defendants and claimed Rs.42,000/- per month as maintenance.

8. After notice, defendants/appellants herein filed an application under Order VII Rule 11 read with Section 20 of CPC pleading therein that in paragraphs 11, 13 and 14 income from the property has been shown. However, description of the property is specifically not mentioned in paragraph 11. The joint hindu family property of defendant No.1 is situated at Village Dhaurabhata, Botka, Tehsil Saja and Thaankhamariya, District Bemetara, and therefore, the properties which are subject matter of application are not within a territorial jurisdiction of Family Court, Durg, and therefore, the Family Court, Durg is not having jurisdiction to decide the claim of the plaintiff/appellant. It

is also pleaded that defendant No.1 has challenged the Will said to be executed in favour of the plaintiff and defendants No.2 and 3 before the Court at Bemetara, which is pending and prayed for dismissal of application on that ground.

9. The application filed under Order VII Rule 11 read with Section 20 of CPC was replied and denied the pleadings made therein. In reply, there was further mention that the applicant therein had submitted the revenue record showing the properties recorded in name of her late husband Ashish Vaishnav. In additional pleadings, there is mentioned that the application for grant of maintenance can be filed before the Court where the marriage was solemnized, the Court within whose jurisdiction the wife resided first, the Court in whose territorial jurisdiction the wife last resided with her husband as husband and wife and the Court having jurisdiction at the place of the residence of the woman at the time of presentation of the application/suit.

10. With regard to the pleadings made in the reply regarding territorial jurisdiction based on the grounds mentioned therein is concerned, a perusal of the provisions under the Act, 1956 would show that under this act there is no specific provision dealing with the issue territorial jurisdiction of the Court though the counsel for the appellant has made his argument on territorial jurisdiction. However, perusal of the application under Order VII Rule 11 of CPC would show that the application is not filed under specific provision as provided under CPC but under the provisions of Order VII Rule 11 of CPC and prays for dismissal of the application, and therefore, we are considering as to whether the order impugned passed by the learned Family Court on an

application under Order VII Rule 11 of CPC to be in accordance with law. Order VII Rule 11 of CPC which is relevant in the fact of the case is extracted below for the reference:-

> **ORDER VII Rule 11. Rejection of plaint.**-The plaint shall be rejected in the following cases:-
> (a) where it does not disclose a cause of action;
> (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
> (c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
> (d) where the suit appears from the statement in the plaint to be barred by any law;
> (e) where it is not filed in duplicate;
> (f) where the plaintiff fails to comply with the provisions of rule 9:
> Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature for correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

11. Perusal of the afore-extracted provision would show that Order VII Rule 11 of CPC talks of rejection of plaint on the grounds as enumerated therein. Under Order VII Rule 11 of CPC, the ground of territorial jurisdiction is not envisaged, and therefore, the submission made by counsel for the appellants that the family Court is not having the territorial jurisdiction because the properties from which maintenance is sought are situated within territorial jurisdiction of Bemetara District is

not having much force in the facts of the case when the order under challenge is passed on an application passed under Order VII Rule 11 of CPC. The learned Family Court, while deciding the application under Order VII Rule 11 read with Section 20 of CPC, has taken into consideration that the plaintiff/respondent is residence of Durg and she is claiming the maintenance, and therefore, it is observed that application is maintainable and dismissed the application.

12. The provisions of Hindu Adoption and Maintenance Act, 1956 are beneficial for women and old parents for their maintenance while in distress. It could not be presumed by any stretch of imagination that such person would have to run from pillar to post for relief under the provisions of Hindu Adoption and Maintenance Act, 1956. Section 20 which is also mentioned in application under Order 07 Rule 11 CPC talks of other suits to be instituted were defendants reside or cause of action arises. Clause (c) of Section 20 talks of cause of action, wholly or partly. The respondent is a woman residing at a different place and therefore, for the purpose of making demand for maintenance clause “c” of Section 20 of CPC would be attracted as the cause of action if not wholly in part arose at the place of residence of the respondent which is within the territorial jurisdiction of Court at Durg.

13. Division Bench of Bombay High Court in case of **Sucheta Dilip Ghate and Anr. V. Dilip Shantaram Ghate**, reported in **MANU/MH/0130/2003(4) Mh LJ 445** keeping in mind the objects and reasons of Act of 1956 held that the maintenance petition should be allowed to be filed where the wives and parents reside and observed as under:-

> “6…. The Hindu Adoptions and Maintenance Act has no provision regarding the jurisdiction of the Court to which the application for maintenance is to be presented. The provisions of Hindu Adoptions and Maintenance Act are beneficial and social legislation for the benefit of women and infirm old parents for their maintenance while in distress. It cannot be imagined by any stretch of imagination that such person in distress would not have to run from pillar to post for relief under the provisions of Hindu Adoptions and Maintenance Act, if the husband or son keeps on changing his residence or prefers to reside in far away town from the town of wife or parents. In view of this we are of the considered view that taking recourse to clause (c) of Section 20 of the Code of Civil Procedure, the proceedings could be instituted at a place of residence of wife who is residing at different place than her husband.”

14. High Court of Bombay in case of **Sunita Vs. Ravi** reported in **2004 Volume 1 Maharashtra Law 870** had followed the decision rendered in case of **Sucheta Dilip Ghate (supra)** and held as under:-

> “13.Even otherwise the order of return of plaint is erroneous. The Judge family Court has failed to take into consideration that cause of action means circumstance forming 14-10-2026 (Page 3 of 4) www.manupatra.com High Court of Chhattisgarh infraction of legal right of deserted wife. In similar situation the Division Bench of this Court in case of **Mrs. Sucheta D. Ghate** referred supra has held that cause

of action means a circumstance forming infraction of the right or immediate occasion for action. In case of **Mrs. Sucheta D. Ghate** the appellant was compelled to leave matrimonial house and reside separately at Ahmedabad. The circumstance further compelled the appellants to shift to Pune where they started residing with the father of the appellant No. 1. On the date of filing the petition for maintenance the appellants were residing at Pune. Similar kind of objection was raised with regard to territorial jurisdiction. The Division Bench of this Court turned down the objection and held that the cause of action in part did arise at Pune. It is observed that by no stretch of imagination it can be said that cause of action arose only at Ahmedabad. It is observed that as a matter of fact circumstance forming infraction of the right of appellants continues and exists at Pune. In other words, suffering of the appellant due to lack of means for maintenance continued in Pune and in view thereof, it is held that cause of action also arose at Pune.

14. The Hindu Adoptions and Maintenance Act has no provision regarding jurisdiction of the Court to which application for maintenance is to be presented. The provisions of Hindu Adoption and Maintenance Act are beneficial and social legislation for the benefit of women and infirm old parents for their maintenance while in distress. Such person in distress would have to run from pillar to post for relief under provision of Hindu Adoptions and

> Maintenance Act, if the husband or son keeps on changing his residence or prefers to reside in far away town from the town of wife or parents. Taking into consideration the nature of the right of wife in distress, this Court held that the proceedings for maintenance can be instituted at a place of residence of wife who is residing at different place than her husband."

15. In the aforementioned facts of the case, more particularly considering that the Act of 1956 is beneficial piece of legislation for the objects and reasons behind the enacting act of 1965, the respondent widowed daughter-in-law of applicant No.1 is residing in Durg on the date of submitting application, we are of the considered view that the case filed by respondent before the Durg Court will be maintainable under Clause (c) of Section 20 of CPC.

16. In view of the further discussions and in the facts of the case, the decisions relied upon by learned counsel for the appellant in case of **Kanchana Rai; Uma Devi (supra)** and **Geeta Rani (supra)** are not applicable to the facts of the case as the ground in this application under Order 7 Rule 11 of CPC is with regard to the jurisdiction.

17. The decision relied upon by learned counsel for the appellant in case of **Praveen Kumar Jain(supra)** is also on different facts. In that case the application under Order 7 Rule 11 CPC was filed also on different facts and therefore, it is not beneficial to the appellant in the facts of the case.

18. For the forgoing discussions, we are of the considered view that there is no error or infirmity in the order impugned passed by the learned

Family Court dismissing the application under Order 07 Rule 11 of CPC. Accordingly, the present appeal being sans merit is liable to be and is hereby **dismissed**. No order as to costs.

Certified copy as per rules.

**(Parth Prateem Sahu)**
**Judge**

**(Sushma Sawant)**
**Judge**

Alfiza/Nikita