

(1957) 01 P&H CK 0008
In the Punjab And Haryana At Chandigarh
Case No : Second Appeal No. 263 of 1957

Bharawan Bai and Others

APPELLANT

Vs

Lila Ram Sanwara Ram
 Lila Ram Sanwara Ram Vs
Bharawan Bai and Others

RESPONDENT

Date of Decision : 18-01-1957

Acts Referred:

Hindu Marriage (Amendment) Act, 1956 — Section 4

Citation : AIR 1963 P&H 118

Hon'ble Judges : A.N. Grover, J

Bench : Single Bench

Advocate : N.L. Salooja and P.C. Jain, for the Appellant;

Final Decision : Allowed

Judgement

A.N. Grover, J.—On 13th July 1955 the respondent who is the husband instituted a suit against his wife, the present appellant, for restitution of conjugal rights. The father or the wife as also certain other persons were impleaded as defendants as well. In the written statement filed before the trial Court by the defendants, an objection was raised that the Court of Subordinate Judge 1st Class where the suit was being tried had no jurisdiction to entertain it as the Hindu Marriage Act had come into force on 18th May, 1955 and only an application was competent under the provisions of that Act which lay to the District Court. Somehow no issue was framed on this point and the trial proceeded before the learned Subordinate Judge. After trying the various issues which were raised on the pleadings of the parties, he dismissed the suit. The husband appealed before the Additional District Judge. There also it was not pointed out on behalf of the wife or the other defendants that the proceedings of this nature were competent only under the Hindu Marriage Act. The Additional District Judge reversed the judgment of the trial court and decreed the suit. A decree for restitution of conjugal rights was granted against the wife as also a decree for perpetual injunction was passed against the other defendants

restraining them from preventing the wife from going to the house of the husband. All the defendants have come up in appeal to this Court and the only ground that has been raised before me is that the Courts below had no jurisdiction to decide the suit and that the proceedings for restitution of conjugal rights were competent under the provisions of the Hindu Marriage Act alone and were entertainable by the forum provided by that statute. It is unnecessary to refer to the various provisions of the Act because the same have been considered at some length in Smt. Balwant Kunwar and Others Vs. Addl. Munsiff, Dehra Dun and Another, and Bootan Bai Vs. Durgaprasad Chatura, and it has been held that after the enactment of the Hindu Marriage Act it is the District Court alone which has been given exclusive jurisdiction with respect to restitution of conjugal rights and, there-fore, by implication a Munsiff has no jurisdiction to entertain the suit of this nature. The jurisdiction of the regular Civil Courts to entertain suits regarding matters which have been specially provided for in the Act has been taken away u/s 4 of the Act. Mr. P. C. Jain, who appears on behalf of the husband, has drawn my attention to the language of Section 14 of the aforesaid Act in which the words "any Court" appear but that can have no bearing on the question of jurisdiction or the other question whether proceedings of this nature can be taken only under the provisions contained in the Hindu Marriage Act. I respectfully agree with the reason given in these decisions and hold that the present suit was not entertainable by the Civil Courts in the ordinary way and that it could be Instituted only in accordance with the provisions contained in the Hindu Marriage Act and before the forum provided by that Act. Consequently it must be held that the judgments and decrees of the Courts below were wholly without jurisdiction. The appeal is allowed and the decree of the Additional District Judge is hereby set aside, in exercise of my revisional powers u/s 115 of the Code of Civil Procedure, I further Set aside the decree of the trial Court as well as being without jurisdiction. There will be no order as to costs in this Court.