



2026:CGHC:14150

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WP227 No. 328 of 2026**

**1** - Smt. Nilima W/o Hitendra Kumar Palaspagar Aged About 45 Years  
Occupation- Nil R/o Rukhmini Nagar Deoli, Road Sawangi (Meghe) C/o  
Kalawati Kawade District- Wardha (Maharashtra)

... **Petitioner(s)**

**versus**

**1** - Hitendra Kumar S/o Pandit Rao Palaspagar Aged About 51 Years  
Occupation- Service R/o Ward No.12 Vivekanand Colony Nandani Nagar,  
Behind Electricity Office P.S. Nandini Tehsil Ahiwara Tehsil And District- Durg  
(C.G.)

... **Respondent(s)**

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For Petitioner	:	Shri Purnendra Khichariya, Advocate.
For Respondents	:	Shri Vikram Sharma (through virtual mode) and Shri Abhinav Sharma, Advocate.

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**Hon'ble Shri Justice Ravindra Kumar Agrawal, J**

**Order on Board**

**24.03.2026**

1. The present writ petition under Article 227 of the Constitution of India has been filed by the petitioner against the impugned order dated 09.02.2026 passed by the First Additional Principal Judge, Family Court, Durg, in Case No.958 of 2023 whereby opportunity to cross examine plaintiff by the defendant has been forfeited and proceeded to record plaintiff's other witnesses.
2. Learned counsel appearing for the petitioner would submit that the petitioner is non applicant before the Family Court. The respondent is prosecuting an application under Section 13(1)(a)&(b) of The Hindu Marriage Act for grant of divorce. The plaintiff is differently abled

person and suffering from 40 percent partial disability and thus looking to his condition the Family Court appointed a Commissioner for recording his evidence at his residence. On 09.02.2026 though non applicant appeared before the Family Court, however, she shown her inability to get the plaintiff cross examined in his house and she wants to cross examine him before the court to avoid any further controversy. The Family Court rejected her request and forfeited her right to cross examine the plaintiff. He would further submit that non applicant is ready to cross examine the plaintiff at his residence itself on commission which has already been issued by the Family Court and she will not take any further adjournment for cross examination of the plaintiff. He would further submit that any condition may be imposed by this court while permitting her to cross examine the plaintiff and the impugned order dated 09.02.2026 may be set aside.

3. On the other hand, learned counsel for the respondent opposes the prayer made by the counsel for the petitioner.
4. From perusal of order impugned it transpires that non applicant have repeatedly taken time to cross examine the plaintiff. However, on 09.02.2026 also when she failed to cross examine the plaintiff, the Family Court forfeited her right to cross examine him. The Family Court has specifically ordered that right to cross examine other witnesses of plaintiff is not forfeited and she has every right to cross examine other witnesses of plaintiff and restriction was only to the extent of plaintiff's cross examination.
5. From perusal of record produced in the present case it transpires that plaintiff is prosecuting his application for grant of divorce and there are various allegations and counter allegations between the parties.

Looking to the controversy between the parties, cross examination of plaintiff is required to rebut the allegation made in the application irrespective of the fact whether the applicant would be succeeded or not, but right to cross examine cannot be taken away only on the submissions made by the non applicant that she will not cross examine the plaintiff at his house.

6. Be that as it may, now the non applicant is ready to cross examine the plaintiff at his residence itself pursuant to the Commission issued by the Family Court as has been submitted by the counsel for the petitioner/non applicant.
7. Without entered into the merits of the case, this court is of the opinion that non applicant/petitioner may be provided an opportunity to cross examine the plaintiff pursuant to the Commission issued by the Family Court and also in view of submission made by her that she is ready to cross examine the plaintiff at his residence. Therefore, the Family Court is directed to provide an opportunity to non applicant to cross examine the plaintiff at his residence pursuant to commission issued by it. The Family Court is directed to fix a date for recording cross examination of the plaintiff at his residence under the terms of the Commission which has already been issued by it with the consent of the parties, subject to payment of cost of Rs.3000/- payable to the plaintiff. It is made clear that no further adjournment shall be granted to non applicant for cross examination of plaintiff, subject to other impediment.
8. With the aforesaid observations, the writ petition stands disposed of.

Sd/-  
(Ravindra Kumar Agrawal)  
**Judge**