

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

C.R No.46 of 2026

Decided on: 22.04.2026

Yadav Nandan

... Petitioner

Versus

Ishani Kumari @ Asha Devi @ Ashu

... Respondent

Coram

Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the petitioner : Ms. Tanu Sharma, Advocate.

For the respondent : Mr. Naveen K. Bhardwaj, Advocate.

Romesh Verma, Judge (Oral)

CMP(M) No.1027 of 2025

Present application has been filed for condonation of delay in filing the present petition. Learned counsel for the non-applicant/respondent has pleaded no objection in allowing the application. Consequently, the instant application is allowed and disposed of accordingly.

2. Revision Petition be registered.

C.R No. 46 of 2026.

3. With the consent of the parties, the case is taken up for consideration at the admission stage.

¹ Whether reporters of the local papers may be allowed to see the judgment?

4. The present petition has been filed for setting aside the order dated 13.07.2023 passed by the learned Principal Judge (Family Court), Mandi, H.P in CMA No.116 of 2023 titled Yadav Nandan vs. Ishani Kumari @ Nisha @ Asha Devi @ Ashu, whereby the application filed by the present petitioner under the provisions of Order 1 Rule 10 read with Section 151, CPC was dismissed.

5. Before coming to the merits of the present case, it is pertinent to mention here that against the aforesaid impugned order, the present petitioner had preferred CMPMO No.595 of 2023, which was dismissed on 20.12.2024 by a Co-ordinate Bench of this Court and while deciding the said matter, it has been held as under:-

“2. The present petitioner had preferred an appropriate petition before the trial Court under the provisions of the Hindu Marriage Act for annulment of his marriage. The same is inter se petitioner and his estranged wife, respondent herein. In the pending petition so filed, an application under Order 1 Rule 10 read with Section 151 of the Civil Procedure Code had been preferred by the present petition seeking impleadment of his daughter, i.e., Kumari Champa.

3. The test for impleading of a party is as to whether the presence of the party so sought to be impleaded is necessary in order to enable the Court to effectually, completely adjudicate and settle the dispute inter se petitioner and respondent. Admittedly, in the case at hand, the pending petition is preferred for annulment of marriage. The minor daughter, namely Kumari Champa sought to be impleaded is neither a necessary party nor a property party for a complete and effectual adjudication of the dispute inter se petitioner and his wife. The impugned order dated 13.07.2023 clearly reflects that the trial Court has considered the case in its correct perspective and has applied the correct parameters/test.

4. Besides the aforesaid, the preset petition has been preferred

under Article 227 of the Constitution of India. The scope of jurisdiction of High Court under Article 227 of the Constitution has been expounded by the Hon'ble Supreme Court as under:

“(i) In *Sadhana Lodh vs. National Insurance Co. Ltd. & another*, (2003)3 SCC 524, it has been held as under:-

“7. The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior court or Tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an Appellate Court or the Tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior court or Tribunal purports to have passed the order or to correct errors of law in the decision.”

(iii) In *Garment Craft vs. Prakash Chand Goel*, (2022)4 SCC 181, it has been held as under:-

“15. Having heard the counsel for the parties, we are clearly of the view that the impugned order is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute conclusion, for its own that of decision the on facts inferior court and or tribunal. The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, *Celina Coelho Pereira (Ms) and Others v. Ulhas Mahabaleshwar Kholkar and Others*, (2010) 1 SCC 4 (2024:HHC:15394) violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such

discretionary relief must be exercised to ensure there is no miscarriage of justice.”

5. Thus, from the above stated exposition of law, it is clear that this Court has a restricted and limited jurisdiction to interfere under the correctional jurisdiction vested in it in terms of Article 227 of the Constitution of India, except to set right a grave dereliction of duty or flagrant abuse or violation of fundamental principle of law or justice.

6. In the case at hand, I am of the considered view that no ground is made out in the present petition for invoking the jurisdiction of this Court under Article 227 of the Constitution of India.”

6. Faced with this situation, when the learned counsel for the petitioner was confronted with the legal preposition that how the present petition is maintainable in view of the decision as passed by the Co-ordinate Bench in CMPMO No.595 of 2023, it is submitted by the learned counsel for the petitioner that since there was no adjudication on merits, therefore, the present petition has been filed.

7. This Court is afraid to accept the said contention of the learned counsel for the petitioner. Para 3 of the said judgment passed in CMPMO No.595 of 2023 categorically deals with the merits of the impugned order, which was passed by the learned Trial Court on 13.07.2023. The Co-ordinate Bench has come to the conclusion that the impugned order reflects that the learned Trial Court has considered the case in its correct perspective and has applied the correct parameters/test. Therefore, the present petition, which has

been filed subsequently assailing the impugned order dated 13.07.2023, which stands affirmed by this Court in CMPMO No.595 of 2023, is not maintainable.

8. In view of above, the present petition is dismissed and stands disposed of accordingly. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Romesh Verma)
Judge

April 22, 2026
(*mamta*)