



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 14 of 2015**

- A. Srinivas Rao S/o Late A. Anand Rao Aged About 39 years R/O Qr. No.61B, Risali Sector Bhilai, District Durg Chhattisgarh

---- Petitioner

Versus

- Smt. Suman Tirki (Arya) W/o A. Srinivas Rao Aged About 31 Years R/O Suman Tirki Shikshakarmi Grade-1, Govt. High School Mohlai, P.S. Tamnar District Raigarh Chhattisgarh

---- Respondent

For Petitioner
For Respondent

: Mr. Gari Mukhopadhyay, Advocate.
: Mr. Raj Kumar Pali, Advocate.

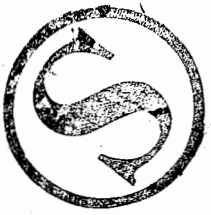
Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****21/04/2015**

1. By this order Transfer petition (civil) filed by the petitioner/husband seeking transfer of Civil Suit No. 117-A/2014 (Smt. Suman Arya -v- A. Shrinivas Rao) under Section 13 of the Hindu Marriage Act from the Court of Family Court, Raigarh to Family Court, Janjgir Champa is being disposed of.
2. As per facts of the case the petitioner and respondent are husband and wife. Their marriage was solemnized on 27th May, 2011. Subsequently, the petitioner filed a civil suit No. 12-A/13 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights against the respondent before the Additional Principal Judge, Family Court, Durg which was subsequently transferred to Judge, Family Court, Janjgir Champa for disposal as per law vide order of this Court passed on 28-11-2014 in TP(C) No. 24/2014. After institution of said civil suit, respondent/wife filed a civil suit under Section 13 of the Hindu Marriage Act against the present petitioner which was registered as Civil Suit No. 117A/14 and is pending before the Judge, Family Court, Raigarh. By filing this petition the petitioner seeks transfer of Civil Suit No. 117A/14 to the court of Judge, Family Court, Janjgir Champa so



that both the civil suits i.e. suit for restitution of conjugal right filed by the husband and suit for dissolution of marriage by a decree of divorce filed by the wife may be heard by the same court for proper adjudication.

3. Learned counsel for the respondent opposed the petition.
4. Heard learned counsel for both the parties and perused the material available in the petition.
5. Learned counsel for the petitioner supported the transfer petition and submitted that in view of the ground taken in the petition, the petition may be allowed and the above mentioned civil suit be transferred to the Family Court, Janjgir Champa.
6. Learned counsel for the respondent opposed the petition and prayed that no ground is available to the petitioner and the petition may be dismissed.
7. In order to appreciate the argument advanced on behalf of the parties, I have perused the material available.
8. Upon appreciating the facts, material available and the arguments advanced, it is emerged that the petitioner and the respondent are husband and wife, their marriage was solemnized on 27-5-2011. Firstly husband filed a petition under Section 9 of the Hindu Marriage Act bearing Civil Suit No. 12-A/13 for restitution of conjugal right which was initially pending before Additional Principal Judge, Family Court, Durg and subsequently transferred to Family Court, Janjgir Champa by this Court vide order dated 28-11-2014 by allowing the transfer petition filed by the wife. Subsequently the respondent/wife filed Civil Suit No. 117-A/2014 for dissolution of marriage before Family Court at Raigarh which is being sought to be transferred to Janjgir Champa.
9. Having considered the facts and circumstances of the case, in the opinion of this Court, it would be appropriate that both the petitions being matrimonial matter between the same parties, are decided by the same court and the Civil Suit No. 117-A/2014 pending in the Family Court, Raigarh is transferred to Family Court, Janjgir Champa where Civil Suit No. 12-A/13 is already pending in which the



respondent is already taking part and there will no inconvenience to the respondent in attending the court for this civil suit also. Hon'ble Supreme Court has also held in the matter of Ms. Shakuntala Modi -v- Omprakash Bharuka reported in AIR 1991 SC 1104, that "having regard to the nature of the dispute involved in the two cases, we are of the view that it is highly expedient that the cases are heard by the same court."

10. On due consideration of the facts mentioned and also on the principle laid down in the above mentioned case law, the petition filed by the petitioner deserves to be allowed.

11. Consequently, the petition is allowed. It is ordered that Civil Suit No. 117-A/2014 (Smt. Suman Arya -v- A. Shrinivas Rao) pending before the Judge Family Court, Raigarh be withdrawn and transferred to the Judge Family Court, Janjgir Champa for its trial/disposal in accordance with law. The Judge Family Court, Raigarh is hereby directed to transmit immediately the concerned record towards Family Court, Janjgir Champa for further proceedings.

12. No order as to cost.

Sd/-
Chandra Bhushan Bajpai
Judge