

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No.38 of 2014**

Poonam Ravlani, wife of Deepak Kumar Ravlani, aged about 33 years, Present Address C/o. Ashok Kumar Nathani, C/89, Bajaj Colony, Sector-2, Behind Jain Temple, New Rajendra Nagar, Raipur PS Rajendra Nagar, Civil and Revenue District Raipur (CG)

---- **Petitioner**

Versus

Deepak Kumar Ravlani, Son of Murlidhar Ravlani, aged about 32 years, R/o. Shanti Nagar, Road No.3, Durg, Tahsil and District Durg (CG)

---- **Respondent**

Shri Atanu Ghosh, counsel for the petitioner.
Shri Uttam Pandey, counsel for the respondent.

Order On Board**11/9/2015**

By this order, transfer petition (civil) filed by the petitioner seeking transfer of Civil Suit No.469A/13 (Deepak Ravlani vs. Smt. Poonam Ravlani), pending before Principal Judge, Family Court, Durg under Section 13 of the Hindu Marriage Act, 1955, to the Court of Principal Judge Family Court, Raipur, is being disposed of.

2. As per the brief facts of the petition, petitioner and the respondent are husband and wife and out of their wedlock, they have been blessed with one son and one daughter. (Date of marriage is not mentioned in the petition) Presently their son, aged about seven years, is residing with the petitioner and the daughter is residing with the respondent. The respondent has filed above mentioned civil suit under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce, which is pending for consideration. The petitioner has filed MJC No.541/2013 under Section 125 of the Cr.P.C. against respondent for maintenance before Principal Judge, Family Court, Raipur. It is prayed that since the petitioner is a woman with no any independent source of income, it would be difficult for her to prosecute the cases at two different

places. As she has to take care of her son, aged about 7 years, it would be difficult for her to attend the proceedings at Family Court Durg along with the child. Hence, prayed that the aforementioned Civil Suit No.469A/13 may be transferred from the Court of Principal Judge, Family Court, Durg to the court of Principal Judge, Family Court, Raipur in the interest of justice.

3. On behalf of the respondent, reply has been filed wherein it is submitted that the petitioner not filed the instant petition with all the facts. Earlier the respondent has filed Civil Suit No.129A/12 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and the case was disposed of in Mega Lokadalat on 29.7.2012. Both the parties arrived in to an amicable settlement and in the light of the compromise, the said civil suit was dismissed as not pressed. Thereafter as per terms and conditions of the compromise, the petitioner failed to come to the respondent for conjugation of married life, thereafter he has filed the aforementioned civil suit for decree of divorce. In that impugned divorce petition, vide order dated 05.5.15 under Section 24 of the Hindu Marriage Act, Rs.10,000/- was allowed for cost of litigation. Also vide order dated 26.6.14, the First Additional Principal Judge Family Court Raipur in MJC No.496/13 granted Rs.2,000/- per month towards interim maintenance for the petitioner and also Rs.1500/- towards interim maintenance for son Vivek Rawlani. Further ground taken that the petitioner has also filed a suit (MJC No.20/14) under Guardian and Wards Act, 1890 before the Family Court, Durg, which is pending for consideration. It is prayed that as the petitioner has not disclosed the above fact, the petition is not maintainable. Hence the same may be dismissed.

4. Heard both the contesting parties on the instant appeal.

5. Learned counsel for the petitioner vehemently supported the ground taken in the instant petition and submitted that looking to the facts and

circumstances surfaced in the petition, the petition may be allowed accordingly and the matter may be transferred from Family Court Durg to Family Court Raipur. Learned counsel for appellant has also placed reliance in **AIR 2002 SC 396 (Sumita Singh vs. Kumar Sanjay and another)** wherein the Hon'ble Supreme Court held as follows:

“2. Learned counsel for the husband states that the wife is an educated woman who is doing very well and can, therefore, travel to Ara while the husband is unemployed.

3. It is the husband's suit against the wife. It is wife's convenience that, therefore, must be looked at. The circumstances indicated above are sufficient to make the transfer petition absolute.

4. Accordingly, Matrimonial Case No.30 of 2000 pending before VIth Additional District and Sessions Judge, Ara, Bhojpur, Bihar shall stand transferred to the District Judge, Delhi who shall hear it himself or assign it for hearing to an appropriate forum.”

Learned counsel for the petitioner submits that in view of the above mentioned judgment, prayer of the petitioner may be allowed accordingly.

6. Per contra, learned counsel for the respondent submitted a written response for the main petition and submitted that the petitioner herself filed MJC No.20/14 under Guardian and Wards Act for the custody of her daughter presently with the respondent and the matter is pending before Family Court, Durg, she has to appear and contest the above mentioned MJC filed by the petitioner herself. Looking to the facts, the case law cited supra is not applicable as the facts in the instant matter is different. Looking to the order passed by the courts below regarding maintenance and litigation cost and also the facts that the petitioner has not disclosed regarding the order dated 29.7.2012 passed in proceedings under Section 9 of the Hindu Marriage Act filed by the respondent before the Family Court Durg, the petition may be dismissed.

7. In order to appreciate the arguments advanced on behalf of the parties, I have perused the material available on record.

8. On close scrutiny, it emerges that both the contesting parties are husband and wife and out of their wedlock, one son and one daughter were born. The male child is with the petitioner and the girl child is with the respondent. Earlier the respondent filed Civil Suit No.129A/12 for restitution of conjugal rights wherein on account of amicable settlement between both the parties, the same was dismissed as not pressed. One more litigation for maintenance is pending before Family Court Raipur. The respondent has filed aforesaid civil suit for decree of divorce which is pending before Family Court Durg. One more litigation under Guardian and Wards Act by the petitioner herself before the Family Court Raipur bearing number MJC No.20/14 is also pending for consideration. The distance between Raipur and Durg is about 40 km. As the petitioner herself filed the case regarding custody of daughter before the Family Court, Durg she has to appear in the said litigation and to prosecute the matter.

9 Looking to the above facts that one more litigation is pending before Family Court Durg filed by the petitioner herself, in the considered view of this Court, the case law cited as per facts is not for any help to the petitioner.

10. On due consideration, I do not see any reason for the transfer of Civil Suit No.469A/13. Consequently, the instant petition is liable to be and is hereby dismissed. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE