

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 21 of 2015

- Smt. Yugal Kishori Shukla W/o Shri Priyank Shukla Aged About 28 years R/o Through Father- Dr. Jai Narayan Tripathi, Siddheshwari Temple Road, Behind Primary School, Kota, Raipur, Tahsil-Raipur, Civil & Revenue Distt.- Raipur, Chhattisgarh

---- Petitioner

Versus

- Shri Priyank Shukla S/o Shri A.K. Shukla Aged About 33 Years R/o Behind Ganga Nursing Home, Jagatpur, Raipur, Tahsil And Distt.- Raigarh, Chhattisgarh

---- Respondent

For Petitioner
For Respondent No.

: Ms. Fouzia Mirza, Adv.
: Mr. Dhiraj Wankhede, Adv.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

03/08/2015

1. By this order, Transfer Petition (Civil) filed by the petitioner under Section 13 of the Hindu Marriage Act, 1955 for transfer of Civil Suit No. F-21-A/2015 (Shri Priyank Shukla -v- Smt. Yugal Kishori Shukla) for dissolution of marriage by a decree of divorce pending in the Court of Judge Family Court, Raigarh to the Court of Principal Judge, Family Court, Raipur is being disposed of.
2. As per facts of the case in brief, both the petitioner and the respondent were married on 21-2-2011 at Raipur as per Hindu customs and rituals. On 6-5-2012 a female child was born out of the wedlock. At present she is aged about 3 years and two month and living with petitioner at Raipur. The suit is pending at the stage of issuance of notice. The respondent is a businessman. Ground taken for transfer of the above-mentioned civil suit is that the petitioner is having about 3 years old female child and Raigarh is about 270 km away from Raipur. If she appears before the Family Court, Raipur, she has to travel 270 km and return back by train communication. It may take the time from morning till 12.00 in the night. It is very difficult for her to travel all alone with her child for such a long time. Hence it is prayed that the

above-mentioned civil suit be transferred from Raigarh to Raipur. It is further submitted that she has no means to maintain herself. Though she had filed an application under Section 24 of the Hindu Marriage Act, 1955 for expenses but till date no maintenance is awarded.

3. Per contra, respondent has filed reply to the transfer petition taking ground that he is the only son of his parents taking care of them. They are suffering from high blood pressure and sugar. The mother is unable to walk. Therefore it is very difficult to leave the mother for a single whole day. It is further submitted that he is ready to give whatever maintenance the trial Court fixes under Section 24 of the Hindu Marriage Act.
4. Heard learned counsel for the parties and perused the petition/reply and other documents filed by both the parties.
5. Learned counsel for the petitioner elaborately supported the pleading made in the petition and submitted that looking to the facts and circumstances of the case, the petition may be allowed and the concerned civil suit may be transferred accordingly.
6. On the other hand, learned counsel for the respondent opposed the petition and submitted that he is ready to give maintenance. Due to ailment of his parents, it is difficult for him to leave Raigarh even for a single day. It is submitted that as no ground for transfer of the civil suit is available to the petitioner, the transfer petition may be dismissed.
7. Court has to consider whether suffering of the parents of the respondent from high blood pressure, sugar and ulcer would be a sufficient ground for dismissing the transfer petition particularly when the female child aged about 3 years resides with her mother/ the petitioner and when no order is yet passed under Section 24 of the Hindu Marriage Act. Even till date no order is passed under Section 125 of the Code of Criminal Procedure.
8. In due consideration, as held in the matter of **Sumita Singh vs. Kumar Sanjay and another**¹, wherein Hon'ble the Supreme

Court held that "It is the husband's suit against the wife. It is the wife's convenience that, therefore, must be looked at." this court is of the view that convenience of the wife has to be seen in the facts and circumstances of the present case. The respondent nowhere mentioned that how he is running his more than one businesses with his ailing parents.

9. Having considered the facts and circumstances of the case, this court is of the considered opinion that the instant transfer petition deserves to be allowed and it is hereby allowed.
10. Accordingly, it is ordered that the Civil Suit No. F-21-A/2015 (Shri Priyank Shukla -v- Smt. Yogal Kishori Shukla) pending in the court of Judge, Family Court, Raigarh (CG) be withdrawn and transferred to the court of Principal Judge, Family Court, Raipur for its trial/disposal in accordance with law. The Judge, Family Court, Raigarh is directed to transfer the record of the above suit to the Court of Principal Judge, Family Court, Raipur for further proceedings.
11. No order as to costs.

Sd/-
Chandra Bhushan Bajpai
Judge