

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No. 24 of 2015**

Bijendra Sahu S/o Shri Deo Prasad Sahu Aged About 34 Years R/o North Chirmiri (Gelhapani), Police Station-Chirmiri, Tahsil-Khadgaon, District-Koriya, C.G., Present Address Govt. Higher Secondary School, Darripara, Bhaiyathan, District-Surajpur, Chhattisgarh

---- **Petitioner**

Versus

Smt. Kaushilya Gupta W/o Bijendra Sahu Aged About 34 Years R/o Village : Mahadeodand, P.S. Bagicha, District-Jashpur, Chhattisgarh

---- **Respondent**

For Petitioner	:	Ms. Sharmila Singhai, Advocate.
For Respondent	:	Shri A.N. Pandey, Advocate.

Order On Board

14/12/2015

1. By this order Transfer Petition (C) filed by the Petitioner seeking transfer of Civil Suit No. 14-A/2014 (Smt. Kaushilya Gupta vs. Bijendra Sahu) under Section 9 of the Hindu Marriage Act, 1955 pending before the Additional District Judge (FTC), Jashpur, Chhattisgarh to the Judge, Family Court, Sarguja at Ambikapur, Chhattisgarh, is being disposed of.
2. As per the facts mentioned in the instant Transfer Petition (Civil) in brief, both the Petitioner and the Respondent are legally wedded husband and wife. Their marriage was solemnized on 06-05-2011 as per Hindu customs. Out of their wedlock, a male child born and presently living with the Respondent. The Petitioner had filed a Civil Suit under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce, before the Judge, Family Court, Manendragarh, which was numbered as 48 of 2014 and the same suit was transferred from Manendragarh to Sarguja at Ambikapur by an order passed by this Court in Transfer Petition (C)

No. 42 of 2014 dated 25.3.2015 and presently the same is pending before the Judge, Family Court Sarguja at Ambikapur. Initially, the Respondent had filed a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act which is pending before the Additional District Judge (FTC), Jashpur, Chhattisgarh. The Petitioner states that both the matters are matrimonial and connected matters. As per the settled law, both the civil suits i.e. under Section 9 of the Hindu Marriage Act and also under Section 13 of the Hindu Marriage Act may be heard by the same Court to avoid any multiplicity and for convenience of both the parties.

3. No written response/ objection has been filed on behalf of the Respondent.

4. Heard learned counsel for the parties.

5. It is submitted on behalf of the Petitioner that both the matrimonial matters are connected, one is restitution of conjugal rights and another is for the dissolution of marriage by a decree of divorce. It would be appropriate that both the matters be heard by the same Court. Hence, the petition may be allowed and the above-mentioned civil suit may be transferred from Jashpur to Ambikapur.

6. On the other hand, Learned counsel for the Respondent orally opposed the petition and submitted that it would be most inconvenient for the Respondent in case the matter is transferred from Jashpur to Ambikapur as she is the permanent resident of police station Bagicha, District Jashpur, Chhattisgarh and she is also working as Assistant Grade-III, Janpad Panchayat, police station Bagicha, District Jashpur. He further submits that all the family members of the Petitioner are residing at Ambikapur. Hence, the petition may be dismissed.

7. For the purposes of appreciation of the submissions made in this behalf by the learned counsel for the parties, grounds taken in the petition and mentioned in the reply and other annexed documents are perused.

8. On due consideration, as the aforementioned civil suit under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce has already been transferred as per order dated 25.3.2015 in Transfer Petition (C) No. 42 of 2014 to Family Court, Sarguja at Ambikapur, and the present matter under Section 9 of the Hindu Marriage Act is presently pending before Jashpur Court, it would be appropriate and convenient that both the matters be heard and disposed of by the same Court.

9. Consequently, the Transfer Petition (Civil) filed by the Petitioner is hereby allowed and it is ordered that the Civil Suit No. 14-A of 2014 (Smt. Kaushilya Gupta vs. Bijendra Sahu) under Section 9 of the Hindu Marriage Act presently pending before the Court of Additional District Judge (FTC), Jashpur, Chhattisgarh be withdrawn and transferred to the Judge, Family Court, Sarguja at Ambikapur Chhattisgarh for its trial/disposal in accordance with law. Learned Additional District Judge (FTC), Jashpur, Chhattisgarh is hereby directed to transmit immediately the concerned record to Judge, Family Court, Sarguja at Ambikapur, Chhattisgarh for further proceedings.

10. The petition is allowed.

11. No order as to costs.

Sd/-
Chandra Bhushan Bajpai
Judge