

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 23 of 2014

1. Smt.Gayatri Soni W/o Manharan Lal Soni, aged about 38 years, at present R/o Bramhanpara, Ward No. 33, Rajnandgaon, Tah. and Distt. Rajnandgaon C.G.

---- Petitioner/Applicant

Versus

1. Manharan Lal Soni S/o Ramkumar Soni, aged about 38 years, R/o Nutan Chowk, Near Pani Tanki, Bhilai-3, Tah. Patan, Distt. Durg C.G.

---- Respondent/Non-applicant

For Petitioner – Shri Rakesh Thakur, Advocate.

For Respondent – None, though represented.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

24/04/2015

1. By this order Transfer Petition (C) filed by the applicant seeking transfer of Civil Suit No.78-A/2013 (Manharan Lal Soni v. Smt.Gayatri Soni) pending before the Court of IIIrd Additional Principal Judge, Family Court, Durg, C.G. to the Family Court, Rajnandgaon is being disposed of.
2. As per facts of the transfer petition, the applicant and non-applicant are wife and husband. Their marriage was solemnized on 19-02-2003 as per Hindu customs. Out of their wedlock three children born, the elder child died and the other two children are surviving namely Vedant @ Komal Soni and Kumud Soni. Vedant is living with the non-applicant and Kumud is living with the applicant. The non-applicant filed a Civil Suit under Section 13 of the Hindu Marriage Act which is pending as aforementioned.
3. The applicant earlier filed Transfer Petition (C) No.09/2014 which was dismissed as withdrawn with liberty to file a duly constituted transfer petition. Hence, the applicant filed this petition and had taken grounds that applicant is

a lady, she is also taking care of her girl child aged about 6 years, she is not having means to maintain, presently she is living in house of her mother, her mother is ailing, there is nobody to help her for attending Court at Durg. In the above mentioned suit, she has filed W.S. Evidence of the parties are yet to be recorded. The non-applicant is engaged in a taxi business, it would not be inconvenient for him to come to Rajnandgaon for taking part in the suit. Hence, the above mentioned civil suit be transferred from Durg to Rajnandgaon.

4. Even after service and representation, none appeared to represent the non-applicant when the case is taken up for hearing.

5. Heard counsel for the applicant present at the time of hearing.

6. Learned counsel for the applicant submits that looking to the grounds taken in the petition, the abovementioned civil suit be transferred from the Court of IIIrd Additional Principal Judge, Family Court, Durg to Judge, Family Court, Rajnandgaon.

7. For appreciation of the argument advanced on behalf of the party present, I have perused and appreciated the facts and documents along with the transfer petition.

8. As there is no rebuttal from the side of the non-applicant, the facts submitted by the applicant in the transfer petition remains unchallenged and unrebutted and as per the facts mentioned in the petition, it goes to show that both the parties are husband and wife, their marriage was solemnized on 19-02-2003 as per Hindu customs at Rajnandgaon. Presently two children living born out of their wedlock one is with non-applicant and the girl child aged about 6 years is with the applicant. The applicant is a woman. She is not having any support for attending hearing at Durg, she has to maintain her 6 years aged girl, she is presently living along with her mother who is ailing and the non-applicant is having sufficient means and conveyance to attend Court.

9. Looking to the facts mentioned in the petition and no rebuttal or contradiction for the same, it would be appropriate to allow the petition.

10. Consequently, on entire consideration of the facts, the transfer petition (civil) is liable to be allowed, hence, the transfer petition (civil) filed by the applicant is hereby allowed and it is ordered that Civil Suit No.78-A/2013 (Manharan Lal Soni v. Smt. Gayatri Soni) presently pending before the IIIrd Additional Principal Judge, Family Court, Durg be withdrawn and transferred to the Judge, Family Court, Rajnandgaon for its trial/disposal in accordance with law. The IIIrd Additional Principal Judge, Family Court, Durg is hereby directed to transmit immediately the concerned record towards the Judge, Family Court, Rajnandgon for further proceedings.

11. No order as to cost.

Sd/-
(C.B.Bajpai)
JUDGE

