

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 17 of 2014**

- Smt. Mamta Agrawal W/o Ravindra Kumar Agrawal Aged About 34 years At Present R/O (Father Ramavtar Agrawal, Income Tax, Sale Tax, Advocate), Near Agrasen Bhavan, Bharkapara, Rajnandgaon, Tah. And Distt. Rajnandgaon C.G.

---- Petitioner**Versus**

- Ravindra Kumar Agrawal S/o K.K. Agrawal Aged About 36 Years R/O Sharda Vihar Colony, Qtr.No. Mig- I/103, Korba, Tah. And Distt. Korba C.G. & In Front Of Vijya Talkies, Transport Nagar, Korba, Tah. And Distt. Korba C.G.

---- Respondent

For Petitioner	: Mr. H.B. Agrawal, Sr. adv. with Ms. Meera Jaiswal, Adv
For Respondent	: Mr. P.R. Patankar, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****28/04/2015**

1. By this order, Transfer Petition (Civil) filed by the petitioner for transfer of Civil Suit No. 60-A/2014 (Ravindra Kumar Agrawal -v- Smt. Mamta Agrawal) filed under Section 13 of the Hindu Marriage Act (in brevity 'Act') presently pending before the Judge, Family Court, Korba to the Court of Judge, Family Court, Rajnandgaon is being disposed of.
2. Brief facts of the case are that the petitioner and the respondent are wife and husband. Their marriage was solemnized on 18-6-2006 as per Hindu rites. Out of the wedlock, two children namely Garvit Agrawal and Aditya Agrawal were born on 6-3-2008 and 10-2-2011 respectively. Presently they are residing with the petitioner.
3. The petitioner filed one petition under Section 125 of the Code of Criminal Procedure which is pending before the Judge, Family Court, Rajnandgaon bearing M.Cr.C. No. 196/2013. The petitioner also filed one civil suit under

Section 9 of the Act for restitution of conjugal rights bearing Civil Suit No. 140-A/2013. The respondent filed a civil suit before Judge, Family Court, Korba under Section 13 of the Act for dissolution of marriage by a decree of divorce as Civil Suit No. 60-A/2014. The petitioner is a lady. She cannot travel without escort. She is also maintaining two children and taking their care. Looking to the facts that the civil suit filed under Section 9 of the Act is also pending before the Family Court, Rajnandgaon, it would be appropriate that the suit under Section 13 of the Act for dissolution of marriage may also be disposed of by the same judge who is hearing the suit under Section 9 of the Act.

4. Heard learned counsel for the parties.
5. Learned counsel for the petitioner elaborately supported the grounds raised in the petition and submitted that on the basis of the grounds taken in the petition, the petition may be allowed and the concerned civil suit may be transferred accordingly.
6. Learned counsel for the respondent opposed the petition and submitted that the petitioner has failed to prove her case, hence the petition may be dismissed as not maintainable.
7. In order to appreciate the arguments advanced on behalf of the parties, I have perused the petition and the documents annexed.
8. There is no reply filed on behalf of the respondent. As per the material available in the transfer petition and the documents annexed therewith, the petitioner and the respondent are wife and husband married on 18-6-2006 and out of the wedlock two children born, one on 6-3-2008 and another on 20-2-2011 who are presently residing with the petitioner. The petitioner filed a petition for maintenance under Section 125 of the Cr.P.C. before the Judge, Family Court, Rajnandgaon bearing Misc. Cr. Case No. 196/2013. She also filed an application for restitution of conjugal rights under Section 9

of the Act which is also pending before the Judge, Family Court, Rajnandgaon bearing Civil Suit No. 140-A/2013. After institution of the petition under Section 9 of the Act, the respondent filed a civil suit under Section 13 of the Act which is pending before the Judge, Family Court, Korba bearing Civil Suit No. 60-A/2014. As the petitioner filed petition under Section 9 of the Act prior to the petition filed by the respondent under Section 13 of the Act, also in view of the fact that the petitioner is a woman requires escort to appear before Korba court, she is also taking care of both the children born out of the wedlock, in the opinion of this Court, it would be appropriate that the petition under Section 9 of the Act and the petition under Section 13 of the Act may be heard and disposed of by the same judge to avoid any conflicting view. This Court is of the view that the petition filed by the petitioner is liable to be allowed.

9. Hence on due consideration, the transfer petition is hereby allowed. It is ordered that Civil Suit 60-A/14 pending before the Judge, Family Court, Korba be withdrawn and transferred to Judge, Family Court, Rajnandgaon for its trial/disposal in accordance with law. The Judge, Family Court, Korba is hereby directed to transmit immediately the concerned record towards Family Court, Rajnandgaon for further proceedings.

10. No orders as to cost.

Sd

Chandra Bhushan Bajpai
Judge