

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 30 of 2015

1. Smt. Jyoti Nirmalkar W/o Shri Raju Nirmalkar, aged about 35 years, D/o Late Shri Johan Lal Nage, R/o Ashram Road, Dharampura No. 1, Jagdalpur, District- Bastar, Chhattisgarh

---- Petitioner

Versus

1. Shri Raju Nirmalkar S/o Shri Manohar Lal Nirmalkar, aged about 42 years, R/o Dev Medical Gali, Kanhaiyapuri, Kasaridiha, Durg, Tahsil and District- Durg, Chhattisgarh

---- Respondent

For Petitioner – Shri Alok Dewangan, Advocate.

For Respondent– None, though served and represented.

Order on Board

18/09/2015

1. By this order transfer petition (civil) filed by the petitioner seeking transfer of Civil Suit No. 46-A/2015 (Raju Nirmalkar v. Smt. Jyoti Nirmalkar) pending before the First Additional Principal Judge, Family Court Durg, C.G. under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act, 1955') to the Court of the Judge, Family Court Jagdalpur, District Bastar is being disposed of.

2. As per facts of the transfer petition (civil), the petitioner and the respondent married on 23-05-2010 as per Hindu customs and rituals at Jagdalpur. The respondent filed a civil suit under Section 13 of the Act, 1955 for dissolution of marriage by a decree of divorce which is presently pending before the First Additional Principal Judge, Family Court Durg, C.G. The grounds taken for the transfer by the petitioner are that she is aged about 35 years, she is working as teacher at Lohdiguda about 25 Kms. away from

Jagdalpur. From her workplace Durg is about 325 Kms. away. There is no escort to help her for attending Court at Durg, being a lady she is facing inconvenience to attend the Court at Durg, C.G. also she is apprehending on account of earlier incident that she may be threatened and ill-treated during her stay at Durg for taking part in the proceeding. Hence, it is prayed that the abovementioned civil suit be transferred from Durg to Jagdalpur.

3. As the respondent is not represented despite power was filed on his behalf at the time of hearing so there is no any material in rebuttal for the main petition and the documents annexed along with the petition.

4. Heard counsel for the petitioner.

5. Learned counsel for the petitioner supported the petition and the grounds taken in the petition and submitted that looking to the facts mentioned in the petition, the petition may be allowed and the aforementioned civil suit be transferred from Durg to Jagdalpur.

6. For the purposes of appreciation regarding the prayer as made in the instant transfer petition, since there is nothing to rebut the grounds taken and the facts mentioned in the petition, the original petition and annexed documents are perused.

7. From close scrutiny of the facts and circumstances present before the Court for the moment, it goes to show the petitioner and the respondent are legally wedded wife and husband; their marriage was solemnized on 23-05-2010 at Jagdalpur; the petitioner is working as teacher at Lohdiguda about 25 Kms. away from Jagdalpur; being a woman she is facing inconvenience in attending the Court at Durg, also there is no one to help her as escort for attending the Court at Durg, she have to travel 325 Kms. to attend Durg Court; earlier also she filed complaint regarding torture and other facts; she is

apprehending that she may be ill-treated and threatened if she comes to Durg for taking part in the hearing of the aforesaid civil suit.

8. On due consideration, and also in presence of the fact that there is nothing for rebuttal, looking to the facts and circumstances, it would be appropriate to allow the petition and transfer the aforesaid civil suit as prayed.

9. Consequently, on entire consideration of the facts, the transfer petition (c) is liable to be allowed, hence, the transfer petition (civil) filed by the petitioner is hereby allowed and it is ordered that Civil Suit No.46-A/2015 (Raju Nirmalkar v. Smt. Jyoti Nirmalkar) under Section 13 of the Act, 1955 for dissolution of marriage by a decree of divorce pending before the First Additional Principal Judge, Family Court Durg, C.G. be withdrawn and transferred to the Judge, Family Court Bastar at Jagdalpur for its trial/disposal in accordance with law. The First Additional Principal Judge, Family Court Durg, C.G. is hereby directed to transmit immediately the concerned record towards the Judge, Family Court Bastar at Jagdalpur, C.G. for further proceedings.

10. No order as to cost.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE

