

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No.31 of 2015**

Smt. Uma Yadav, aged about 26 years, wife of shri Santosh Kumar Yadav, R/o. C/o. Kapil Narayan Yadav, New Paraina Basant Park, Quarters No.P-9, near Guru Teg Bahadur Nagar, Raipur, civil and revenue District Raipur (CG)

---- **Petitioner**

Versus

Santosh Kumar Yadav, aged about 32 years, S/o. Late Shri Sundru Ram Yadav, R/o. Mahamaya Chowk, Village katgi, Tahsil Kasol, Civil & Revenue District Baloda Bazar, Bhatapara (CG)

---- **Respondent**

Shri Govind Dewangan, counsel for the petitioner.
Shri Alok Nigam, counsel for the respondent.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board**

07.12.2015.

By this order, transfer petition (civil) filed by the petitioner seeking transfer of HMA No.67A/2014 (Santosh Kumar Yadav vs. Smt. Uma Yadav), pending before the Court of District Judge, Baloda Bazar, under Section 13 of the Hindu Marriage Act, 1955, for dissolution marriage by a decree of divorce, to the Court of Judge Family Court, Raipur is being disposed of.

2. As per the brief facts of the petition, the petitioner and the respondents are legally wedded wife and husband and their marriage was solemnized on 20.4.2007 as per Hindu rites and rituals. Out of their wedlock one male child was born, presently aged about four years residing with the petitioner. The petitioner is house wife, she has no independent source of income and presently living with her parents at Raipur. The petitioner has filed application under Section 24 of the Hindu Marriage Act, 1955 for maintenance and other expenses before the District Judge, Baloda Bazar on 13.02.2015 and the same is still

pending, thereby the petitioner is not getting any money for maintenance and for other expenses. Respondent is a Government employee, working as Shiksha Karmi Grade-III, presently posted at Kasdol. The petitioner has also filed application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 before Judicial Magistrate First Class, Raipur. As the petitioner has no independent source of income and not getting any money for maintenance, she is facing financial constrain for attending the Court hearing at Baloda Bazar. It is submitted that the above mentioned civil suit pending be transferred from Baloda Bazar to Raipur.

3. On behalf of the respondent no any written response/objection has been filed, but he orally opposed the petition.

4. Learned counsel for the petitioner duly supported the ground taken in the petition and submitted that on the basis of the ground taken in the petition, the matter as prayed be transferred from Baloda Bazar to Raipur.

5. On behalf of the respondent, the petition is opposed and submitted that the above mentioned civil suit has been filed by the respondent and responsibility lies on his shoulder to prove its case. All the witnesses of the matter under Section 13 of Hindu Marriage Act are residents of Baloda Bazar. The respondent is residing and working at Kasdol, the circumstances in favour of the husband has also be taken into consideration, hence, it is submitted that the petition for transfer of the matter may be dismissed.

6. For the purpose of appreciating the arguments advanced on behalf of the parties, the material available are perused and arguments advanced are considered.

7. On close scrutiny, it appears that petitioner and the respondent are legally wedded wife and husband and their marriage was solemnized on 20.4.2007 and out of their wedlock a male child was born, presently aged about 4 years, living with the petitioner at Raipur. The respondent is a government employee – Shiksha Karmi Grade-III presently posted at Kasdol (under suspension as per para 7 of the petition) The petitioner has also filed application under Section 12 of the Protection of Women from Domestic Violences Act, 2005 before the Court of JMFC, Raipur, which is still pending. The petitioner is not getting any maintenance from the respondent. She is a house wife, no independent source of income and is residing in her parental house along with her son.

8. Upon considering the fact that the petitioner has no source of income, she is not getting any maintenance for herself or for her son and also she has to go to Baloda Bazar to defend herself, it would be appropriate to transfer the matter from the Court of Baloda Bazar to the Court of Raipur.

9. Consequently, the petition is allowed. It is ordered that Civil Suit No.67A/14 (Santosh Kumar Yadav Vs. Smt. Uma Yadav) pending before District Judge, Baloda Bazar be withdrawn and transferred to the Court of Principal Judge, Family Court, Raipur for its trial and final disposal in accordance with law. The District Judge, Baloda Bazar is hereby directed to transfer immediately the concerned records to the concerned court for further proceedings. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE