

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No.32 of 2015**

Onkar Vaishnav S/o. Late Shri Ram Das Vaishnav, aged about 35 years,
Occupation Shikshakarmi, R/o. Ward No.9, Durg Road, Ganjpara,
Bemetara, District Durg (CG)

---- **Petitioner**

Versus

Smt. Poonam Vaishnav, W/o. Onkar Vaishnav, aged about 26 years, D/o.
Shri Puran Das Vaishnav, R/o. Sinha Kirana Stores, Near Ram Mandir,
Indira Nagar Supela Thana Supela Tah. & District Durg (CG)

---- **Respondent**

Shri Vivek Sharma, counsel for the petitioner.
None for the respondent, though served and represented.

Order On Board

16/9/2015

By this order transfer petition (Civil) filed by the petitioner seeking transfer of Civil Suit No. HMA No. 06A/2011 (Omkar Das Vaishnav vs. Poonam Vaishnav) filed under section 12 of the Hindu Marriage Act, presently pending before Additional Principal Judge, Family Court, (Circuit Court) Bemetara to Principal Judge Family Court, Durg is being disposed of.

2. As per the facts of the transfer petition in brief is that, marriage of the applicant and the non applicant was solemnized on 29.5.2010 at Supela, Bhilai according to customs prevailing therein. The applicant presently working as Shiksha Karmi Grade-III in Bemetara District, (the elsewhere part of undivided district Durg) has filed civil suit against the respondent under Section 12 of the Hindu marriage Act for declaration of marriage as void. The respondent also filed application under Section 125 of the Cr.P.C. which is pending before 3rd Additional Principal Judge, Family Court Durg for maintenance. It is submitted that though the applicant is presently residing at Bemetara and also working at territorial jurisdiction of district Bemetara, he is the resident

of Durg. Non- applicant is also residing in Supela Bhilai, District Durg. The applicant has to attend two courts to represent him, one at Bemetara and another at Durg. It would be convenient for both the parties if both the cases be tried before Family Court Durg.

3. There is no representation on behalf of the respondent despite service of notice. Nothing on record or on oral submission in rebuttal of the original application.

4. Heard learned counsel for the applicant present.

5. Learned counsel for the applicant elaborately supported his contention and submitted that as the facts and grounds mentioned in the application, the petition may be allowed and the civil suit may be transferred accordingly.

6. For the purpose of appreciation regarding the prayer made by the applicant for transfer of above mentioned civil suit from Bemetara to Durg, the petition, annexed documents and other materials filed along with the petition are perused.

7. As the non applicant is not represented and there is no any material on rebuttal, prima facie for the moment, the facts and grounds adduced and mentioned by the applicant is unrebutted.

8. As per the material available on record, it goes to show that the marriage between the applicant and the non applicant was solemnized on 29.5.2010 at Supela Bhilai according to the customs and rituals. The applicant filed the above mentioned civil suit under Section 12 of the Hindu Marriage Act for declaring the marriage as void which is pending before the Family Court at Bemetara. The non-applicant also filed MJC No.297/14 under Section 125 of the Cr.P.C. for maintenance which is pending before the Family Court Durg (CG).

9. Looking to the ground submitted on behalf of the applicant that if both the cases are heard at Durg, it would be convenient for both the parties as non-applicant herself is residing at Supela Bhilai and the applicant can represent him on the same day for the second above mentioned case also. Further submitted that as the non-applicant herself is residing at Supela Bhilai no inconvenience could be caused to her rather it would be convenient for her as she need not go the Bemetara to represent her in the above mentioned civil suit.

10. On due consideration, after appreciation of facts, prayer regarding transfer of aforementioned civil suit is proper and acceptable and the same deserves to be allowed.

11. Consequently, the petition is allowed. It is ordered that Civil Suit No.HMA-06-A/2011 (Omkar Vaishnav vs. Poonam Vaishnav) under Section 12 of the Hindu Marriage Act, for declaring the marriage as void, pending before Additional Principal Judge, (Circuit Court) Bemetara be withdrawn and be transferred to the Family Court, Durg for its trial/disposal in accordance with law. The Additional Principal Judge, Bemetara is hereby directed to transmit the concerned records to the court of Principal Judge, Family Court Durg for further proceedings . No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE