

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 41 of 2015

1. Smt. Rameshwari @ Juli Banskar W/o Dhanaram Banskar, aged about 30 years, Caste- Basor, R/o Bhagat Singh Ward Nahar Road, Bhiravganj, Sivni, Post and Thana- Sivni, Tahsil- Sivni, Civil and Revenue District- Sivni (Madhya Pradesh)

---- Petitioner/Applicant

Versus

1. Dhanaram Banskar S/o Premlal Banskar, aged about 34 years, Caste- Basor, R/o Pachri Para, Ward No. 14, Kurud, Tahsil and Thana- Kurud, Civil and Revenue District- Dhamtari (Chhattisgarh)

---- Respondent/Non-applicant

For Petitioner – Shri Punit Ruparel, Advocate.

For Respondent – Shri D.N.Prajapati, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

03/12/2015

1. By this order Transfer Petition (C) filed by the applicant/petitioner seeking transfer of Civil Suit No. 15-A/2015 (Dhanaram Banskar v. Smt. Rameshwari @ Juli Banskar) under Section 13 of the Hindu Marriage Act, 1955 pending before the Family Court Dhamtari, C.G. to Family Court Durg, C.G. is being disposed of.
2. As per facts of the transfer petition (civil), the petitioner and the respondent are legally wedded wife and husband. Their marriage was solemnized on 04-07-2010 as per Hindu customs. Out of their wedlock a male child born, presently aged about two years living with the petitioner. One matter regarding domestic violence under the Protection of Woman from Domestic Violence Act, 2005 is pending against the respondent at Seoni, Madhya Pradesh. The petitioner prayed that the aforementioned civil suit No.15-A/2015 may be transferred from Dhamtari to Durg for trial, with this, it would be convenient for the petitioner to appear and defend herself as she has to travel all along from Seoni to Dhamtari. The petitioner is a house wife having no

independent source of income presently taking shelter in the house of her father. In the present matter the trial Court under Section 24 of the Hindu Marriage Act, 1955 vide order dated 17-07-2015 granted one time amount for the litigation cost Rs.2000/- and also granted two thousands rupees per appearance in the hearing date along with Rs.500/- for the other expenses. The respondent is working as Shiksha Karmi Grade-III. The petitioner has to face inconvenience for traveling Seoni to Dhamtari as there is no any direct rail communication, she has to take bus transport facilities from Raipur to Durg. On 15-06-2015, she was threatened, for the same she made written complaint before the S.P., Dhamtari. It is further submitted that there would be no inconvenience to the respondent for defending himself before the Durg Court; also relatives of the petitioner are at Durg. Hence, the matter may be transferred from Dhamtari to Durg.

3. On behalf of the respondent/non-applicant reply to the petition has been filed wherein the transfer petition was opposed and it is submitted that upon the complaint made by the petitioner/applicant, enquiry was made and for the same no any cognizable offence was noticed. Initially, the respondent had filed a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act and though he got order for restitution, but the same was not honoured by the petitioner. It is further submitted that the Family Court Seoni passed order for the maintenance in favour of the petitioner for Rs.5000/- per month and while considering the same, the Family Court at Dhamtari, C.G. further awarded Rs. 2000/- one time litigation cost and Rs.2500/- for traveling and other expenses for per hearing appearance. It is further taken ground that the petitioner is not regularly appearing before the Family Court Dhamtari, the Court accepted her prayer to represent through amicus curiae. The distance from Seoni to Dhamtari and Durg would be the same. Hence, as the petitioner failed to demonstrate any ground for transfer, the petition may be dismissed.

4. Heard learned counsel for the parties present in the Court.
5. Learned counsel for the petitioner elaborately supported the grounds taken in the petition and submitted that the petition may be allowed on the basis of the grounds taken in the petition and shown with the documents annexed by the petitioner.
6. Per Contra, learned counsel for the respondent seriously opposed the petition and submitted that on the basis of the grounds taken in the reply to the petition as the petitioner failed to demonstrate any appropriate cause for transfer of the matter, the petition may be dismissed.
7. For the purposes of appreciation made in this behalf by the learned counsel for the parties, grounds taken in the petition and mentioned in the reply and other annexed documents all are perused.
8. From close scrutiny, it appears that the petitioner and the respondent are legally wedded wife and husband. Their marriage was solemnized on 04-07-2010. Out of their wedlock a male child born, presently aged about two years, he is with the petitioner. The petitioner is residing along with her father at Seoni, Madhya Pradesh. The respondent is a Siksha Karmi Grade-III, i.e., a teacher engaged in education department of Chattisgarh State. The petitioner is a house-wife having no any source of income. The Seoni Family Court on application under Section 125 of the Cr.P.C. granted maintenance for Rs.5000/- per month. The Family Court Dhamtari in the instant matter under the provision of Section 24 of the Hindu Marriage Act granted one time Rs.2000/- for the one time cost of the litigation and Rs.2500/- towards traveling and other expenses for per hearing before the Family Court Dhamtari. The respondent is resident of Kurud, District Dhamtari. In absence of any other facts, there is no reason to disbelieve that there is no any direct rail communication from Seoni to Dhamtari. The petitioner has to travel upto Raipur by train and thereafter she has to take a public transport service for

reaching to Dhamtari and thereafter till the place where the family court is situated.

9. As appearing from the facts that the petitioner is a house lady having no independent source of income, is taking care of two years child, is residing with her father at Seoni, M.P., on the other hand, the respondent is employed in the Govt. service as Shiksha Karmi Grade-III. After consideration of the entire material, it appears that even transferring the matter from Dhamtari to Durg, the petitioner has to come from Seoni to Durg and at least in comparison to the above distance, the distance which has to be covered by the respondent would be very short.

10. After appreciation of the entire facts, it would be appropriate to transfer the matter from Family Court Dhamtari, C.G. to Family Court Durg, C.G.

11. Consequently, the transfer petition (civil) filed by the petitioner is hereby allowed and it is ordered that Civil Suit No.15-A/2015 (Dhanaram Banskar v. Smt. Rameshwari @ Juli Banskar) under Section 13 of the Hindu Marriage Act presently pending before Family Court Dhamtari, C.G. be withdrawn and transferred to Family Court Durg, C.G. for its trial/disposal in accordance with law. The Judge, Family Court Dhamtari, C.G. is hereby directed to transmit immediately the concerned record towards Family Court Durg, C.G. for further proceedings.

12. The petition allowed.

13. No order as to cost.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE