

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
TPC No. 36 of 2015

Smt. Sandhya Pandey W/o Shri Pradeep Tiwari, Aged About 33 Years R/o Through Father-Ashok Kumar Pandey, M. I. G. -5, Housing Board Colony, Jagdalpur, Tahsil - Jagdalpur, Civil & Revenue Distt. Bastar Chhattisgarh (Wife) **---- Applicant**

Versus

- Shri Pradeep Kumar Tiwari S/o Shri Parmeshwar Prasad Tiwari Aged About 32 Years R/o L.I.G.-17 F, Housing Board Colony Rampur, Korba, Tahsil And Distt. Korba Chhattisgarh (Husband) **---- Respondent**

For Petitioner	: Ms. Smita Jha, Adv.
For Respondent	: Mr. Vivek Sharma, Adv.

Order On Board

13/10/2015

1. By this order, Transfer Petition (Civil) filed by the applicant under Section 24 of the Civil Procedure Code, 1908 (in brevity 'Code') for transfer of Civil Suit No. F-113-A/2015 (Pradeep Kumar Tiwari -v- Sandhya Pandey) pending in the Court of Principal Judge, Family Court, Korba to the court of Judge, Family Court, Bilaspur is being disposed of.
2. As per facts of the instant transfer petition, the applicant and the respondent were married on 12-6-2015 as per Hindu customs and rituals. The respondent filed a civil suit under Section 11 of the Hindu Marriage Act, 1955 (in brevity 'Act') for declaration of marriage as void by a decree of nullity before the Judge, Family Court, Korba. The applicant is a government servant working in the office of Dy. Registrar, Cooperative Societies posted at Jagdalpur as Asstt. Grade III. Applicant is a government employee and for taking part in hearing of the matter, she has to face problem while going to Korba. Distance between Jagdalpur and Korba is more than 500 km. She has to travel all the way from Jagdalpur to Bilaspur and from Bilaspur to Korba with great hardship. The applicant's sister is residing at Bilaspur permanently and from Jagdalpur to Bilaspur there are direct bus services available whereas in Korba, her no family members are residing. Respondent is having sufficient source of income. He would have no hardship in attending proceedings at Bilaspur. Hence it is

prayed that the matter be transferred from Korba to Bilaspur.

3. On the other hand, learned counsel for the respondent has filed return to main petition stating that the applicant had already married at Arya Samaj Temple, Kohka, Bhilai. It is admitted that the applicant is a government employee. It is further submitted that if the applicant is ready to travel from Jagdalpur to Bilaspur then she may also travel from Jagdalpur to Korba and if she is working as government servant in Jagdalpur then why she had not prayed for transfer of the suit from Korba to Jagdalpur. The applicant has filed instant transfer petition to delay the proceedings and to harass the respondent. Bus services are regularly available from Jagdalpur to Korba and no sister of applicant is residing at Bilaspur. Respondent is also a public servant. Being a public servant, he will keep himself away from any offence. Hence there is no question of fear from the respondent while appearing in person before Family Court, Korba and in case some facts are surfaced she may inform police. As the applicant has already married prior to marriage to the respondent, complaint was made before the police. This is the reason the applicant is under fear that if she appears before court at Korba, she may be arrested by police. If the matter is transferred from Korba to Bilaspur, respondent would face grave hardship as he is working as hostel superintendent. His presence is very much required for taking proper care of students and looking to the responsibility, the case may not be transferred to Bilaspur. Looking to the entire conduct of the applicant, the petition may be dismissed.
4. Heard learned counsel for the parties and perused the material filed by the parties.
5. Learned counsel for the applicant elaborately supported the ground on which instant transfer petition is filed and submitted that on the basis of the grounds taken by the applicant, the civil suit in question may be transfer from Korba to Bilaspur for further trial.
6. Learned counsel for the respondent also supported the return filed by the him and submitted that on the basis of the grounds taken and the facts mentioned in the return, the transfer petition may be dismissed.
7. For the purpose of appreciation of arguments advanced by both the parties, I have perused the material available in the matter submitted

by both the parties.

8. From a bare perusal of the entire material, it is surfaced that the applicant and the respondent married on 12-6-2015. Respondent filed an application under Section 11 of the Act for declaration of marriage as void by a decree of nullity presently pending before the court of Principal Judge, Family Court, Korba as CS No. 113-A/2015. Applicant is a government servant working as Asstt. Grade III in the office of Dy. Registrar, Cooperative Societies posted at Jagdalpur. Respondent is also a public servant working as hostel superintendent, Korba. Distance between Jagdalpur and Korba is about 500 km. Court may take judicial notice that the distance between Bilaspur and Korba is about 100 km. Prayer of applicant is that the matter be transferred from Korba to Bilaspur. Therefore, the applicant still has to travel for 400 km whereas the respondent has to travel only for 100 km. Both are government servant/public servant. As regards other material regarding earlier marriage, FIR lodged against the applicant or the action taken by the concerned authorities, is a different subject matter, also why the applicant prays for limiting the distance from 500 to 100 km. is not the subject matter of present case. If the applicant can travel 400 km despite being a government servant, there is no answer why the respondent may not travel 100 km. for hearing of the matter.
9. Upon consideration of the entire material and facts, this court is of the view that the applicant has comparatively good ground for transfer of the aforementioned civil suit from Korba to Bilaspur.
10. Consequently, on entire consideration of the facts, the transfer petition deserves to be and is hereby allowed. Accordingly, it is ordered that the Civil Suit No. F-113-A/2015 (Pradeep Kumar Tiwari -v- Sandhya Pandey) pending in the Court of Judge, Family Court, Korba be withdrawn and transferred to the court of Judge, Family Court, Bilaspur for its trial/disposal in accordance with law. The Judge, Family Court, Korba is directed to transmit the record of the above suit to the Court of Principal Judge, Family Court, Bilaspur for further proceedings.

11. No order as to costs.

Sd

Chandra Bhushan Bajpai
Judge