

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No.43 of 2015**

Farha Khan, D/o. Late Mr. Anis Hasan Khan, R/o. Flat No.203, Second Floor, CK Heights, Chadda Baadi, Nehru Nagar, Bilaspur Tehsil Bilaspur, District Bilaspur (CG)

---- Petitioner

Versus

Mohammad Irfan Khan, S/o. Anwar Khan, Additional Superintendent of Police, Sukma, R/o. Officers Club, Tehsil, Sukma, District Sukma (CG)

---- Respondent

Shri Suyash Dhar, counsel for the petitioner.
None for the respondent, though served in person as per Office note.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

19.11.2015.

By this order, transfer petition (civil) filed by the petitioner seeking transfer of Civil Suit No.20-A/15 (Irfan Ur. Rahim Khan vs. Smt. Farha Khan) pending before the District Judge, South Bastar, Dantewada under Section 7 of Guardian and Wards Act, 1890 (for short 'the Act of 1890) to the Court of Judge Family Court, Bilaspur is being disposed of.

2. As per brief facts of the petition, the petitioner and the respondents are legally wedded wife and husband, their marriage was solemnized on 01.5.2008 and out of their wedlock one boy and one girl namely Arhan Khan and Fiona Khan, both twins were born, presently aged about 6 years and they are in custody and care of the petitioner. Subsequently dispute arose between the parties and respondent filed an application under Section 7 of the Act 1890 before the District Judge, South Bastar, Dantewada. The petitioner prayed that she is a lady, it is difficult and painful for her to appear before the Court at

Dantewada, she is under continuous threat, she is not in a position to defend properly herself. Both children are minor and studying at Bilaspur. In an application filed by the petitioner under Section 125 of the Cr.P.C., the Family Court Bilaspur ordered for maintenance in favour of the petitioner, but to set aside that order the respondent has filed an application under Section 126 of the Cr.P.C. The respondent is high ranking police officer. Looking to the present situation, the petitioner fears for the life of her children. Son Arhan Khan is suffering from Nefrotic syndrome and even according to Muslim Personal Law, custody of both the children is to be with the mother, hence petition filed by the respondent under Section 7 of the Act is not maintainable. The petitioner has prayed that the aforementioned civil suit be transferred from Dantewada to Bilaspur.

3. There is no representation on behalf of the respondent though served in person as per the office note. Hence, there is nothing on record to rebutt the ground and facts mentioned in the petition.

4. Heard counsel for the petitioner.

5. Learned counsel for the petitioner elaborately supported the grounds taken in the petition and submitted that on the basis of the grounds mentioned in the petition, the petition may be allowed and the concerned civil Suit may be transferred accordingly.

6. As there is no representation on behalf of the respondent, no any oral objection is before the Court.

7. For appreciating the arguments advanced on behalf of the petitioner, I have perused the petition, other documents annexed along with the petition and grounds mentioned in the petition. Since there is nothing in rebuttal for the moment before the Court, grounds and facts

mentioned in the petition and also demonstrated through documents annexed, it would be appropriate to transfer the matter from the Court of South Bastar Dantewada to Bilaspur on the basis of the grounds taken in the petition.

8. Consequently, the petition is allowed. It is ordered that Civil Suit No.20A/15 (Irfan Ur Rahim Khan vs. Smt. Farha Khan) under Section 7 of the Guardians and Wards Act, 1890 pending before the Court of District Judge, South Bastar Dantewada be withdrawn and transferred to the Court of Judge Family Court, Bilaspur for its trial and final disposal in accordance with law. The District Judge, South Bastar Dantewada is hereby directed to transfer immediately the concerned records to the concerned court for further proceedings. No order as cost.

**Sd/-
(Chandra Bhushan Bajpai)
JUDGE**