NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No.44 of 2015

Smt. Richa Mishra, W/o. Navodeet Mishra, Aged About 38 Years, D/o. Nemdhar Diwan, R/o. Gram Baherbod, P.S. Dadhi, P.O. Oriya, Tahsil & District- Bemetara (Chhattisgarh).

---- Applicant

Versus

Navodeet Mishra, S/o. Late N.K. Mishra, Aged About 40 Years, R/o. Vikas Nagar, 27 Kholi, Thana Civil Lines, District- Bilaspur (Chhattisgarh).

---- Respondent

For Petitioner : Mr. Ali Asgar, Advocate

For Respondent : Mr. Achyut Tiwari, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

04/12/2015

1. This is a transfer petition under Section 24 of the Code of Civil Procedure filed by petitioner/wife to transfer the Case No.313-A/2015 *(Navodeet Mishra v. Richa Mishra)* pending at Family Court, Bilaspur to Family Court, Bemetara.

2. Learned counsel for the petitioner/wife submits that initially an application was filed by the husband for divorce at Family Court, Bilaspur under Section 13 of the Hindu Marriage Act and subsequently an application filed by the wife under Section 9 of the Hindu Marriage Act for the restitution for conjugal rights before the Family Court, Bemetara. He further submits that the relief prayed in both the petition i.e. the petition filed by the husband and also by the wife are contradictory in nature to each other and therefore, it would be appropriate to adjudicate the same by the same Court, as one is for the divorce and another is for the restitution of conjugal rights. He would further submit that the wife is working as Shiksha Karmi at Bemetara and the husband is working as Contractor and it would not be difficult to the husband

to attend the date of hearing as and when fixed at Bemetara, as otherwise it will cause greater hardship to the wife to attend the Family Court at Bilaspur and, as such, considering the nature of dispute, the case pending at Bilaspur my be transferred to Bemetara. He placed his reliance in case of ***Sumita Singh v. Kumar Sanjay & Another*** reported in ***AIR 2002 SC 396*** and would submit that normally the convenience of the wife is considered by the Supreme Court, therefore, the case may be transferred.

3. Learned counsel for the respondent/husband opposes the argument advanced by the learned counsel for the petitioner and submits that the sitting of the family Court at Bemetara is for a week and therefore it would cause more inconvenience to the husband to travel down from Bilaspur to Bemetara and therefore the case may not be transferred.

4. Considering the controversy between the parties as the husband filed a petition for divorce whereas the wife has filed a petition for restitution of conjugal rights, both the nexus and issues are interlinked; therefore, in the opinion of this Court, it would be expedient that both the cases are decided together. Therefore, in view of the facts and circumstances of the case, it is directed that the petition pending before the Family Court, Bilaspur i.e. Case No.313-A/2015 filed by the husband be transferred to the Family Court at Bemetara, so that the matter can be heard and decided together alongwith Case No.21-A/2015 filed by the petitioner/wife.

5. With the aforesaid direction, the petition is allowed. However, the family Court, Bemetara is further requested to expedite the trial.

Sd/-
(Goutam Bhaduri)
JUDGE

Ashok