

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (Civil) No.18 of 2015**

- Smt. Gulab Deshmukh, W/o. Shri Haldhar Deshmukh, Caste – Kurmi, Aged about 28 years, R/o. Presently residing Qt. No.126B, HSCL Colony, Ruabandha Sector, Bhilai, Distt. Durg (CG)

---- Applicant

Versus

- Haldhar Deshmukh S/o. Shri Nek Ram Deshmukh, Aged about 30 years, Caste Kurmi, R/o. Village Dudhali, PS Balod, Tehsil Doundi Lohara, Distt. Balod (CG)

---- Respondent

For applicant	: Shri PR Patankar, Advocate.
For Respondent	: Shri Anil Gulati, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order****09/07/2015**

By this order transfer petitioner (civil) filed by the applicant seeking transfer of Civil Suit No.5A/15 (Haldhar Deshmukh vs. Smt. Gulab Deshmukh) filed under Section 9 of the Hindu Marriage Act, pending before Principal Judge, Family Court (Link Court), Balod to the Court of Principal Judge, Family Court, Durg is being disposed of.

2. As per the facts of the transfer petition, the applicant and the non-applicants are wife and husband and their marriage was solemnized on 23.4.2012 as per Hindu rituals and customs. On subsequent development, the applicant filed an application under Section 125 of the Code of Criminal Procedure, 1973 (for short 'the Code') for maintenance against the non-applicant which is pending before Principal Judge, Family court, Durg registered as Case No.850/14 (Smt. Gulab Deshmukh vs. Haldhar Deshmukh). The maintenance petition and the petition under Section 9 of the Hindu

Marriage Act, as above mentioned, both are being tried by the same presiding officer at Durg and at Balod respectively. The applicant is residing at Ruabandha Sector which is about 80 km away from Balod, the applicant is a woman with no source of income, facing inconvenience to attend the Court proceedings at Balod. Hence, the applicant prays that the Civil Suit No.05A/15 may be transferred from Balod to Principal Judge, Family Court, Durg.

3. No any written response/ reply was filed on behalf of the respondent.

4. I have heard learned counsel for the parties and perused the petition.

5. Learned counsel for the applicant elaborately supported contention placed on the petition and submitted that with facts and circumstances mentioned in the petition, the petition may be allowed and the concerned civil suit may be transferred accordingly.

6. On the other hand, learned counsel for the non-applicant opposed the petition and submitted that distance between Durg and Balod is only about 60 km and not 80 km. No inconvenience can be caused if the applicant comes to Balod to attend the Court proceedings. If the applicant is not having any means for her expenditure, she may file petition before the Court concerned. The non-applicant is ready to obey any order made in this behalf by the Court. Hence, he prayed that the petition may be dismissed.

7. For appreciation of the arguments advanced on behalf of the parties, I have perused the material available on record.

8. On close scrutiny it emerges that both the parties are legally wedded husband and wife and their marriage was solemnized on 23.4.2012, petition under Section 9 of the Hindu Marriage Act is pending before Link Court, Balod. Also petition for maintenance is also pending before Principal Judge, Family Court Durg. There is no any reply along with any affidavit filed on behalf of the respondent.

9. As submitted both the cases have been tried by the same presiding officer one at Durg and another at Balod as a Camp Court. Maintenance petition was filed earlier, the applicant is a woman, she is contesting for maintenance. There is no any documents filed in this behalf whether she got any order from the above mentioned both the Courts regarding maintenance or any other circumstances. Even if the distance is only about 60 km, looking to the other attending facts, in view of this Court, the petition is liable to be allowed.

10. Consequentiality, on considering the entire facts, the petition is allowed. It is ordered that Civil Suit No.5A/15 (Haldhar Deshmukh Vs. Gulab Deshmukh) pending before the Court of Principal Judge, Family Court (Link Court) Balod be withdrawn and transferred to Principal Judge, Family Court, Durg for its trial and disposal in accordance with law. Principal Judge, Family Court (Link Court) Balod is hereby directed to transfer the concerned records to the concerned Family Court, Durg for further proceedings. No order as to cost.

(Chandra Bhushan Bajpai)
JUDGE