

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No.16 of 2015**

Deepak Bai @ Deepa, W/o. Deepak aged about 27 years, R/o. Village Khairbanakala Tahsil and Police Station Kabirdham Civil and Revenue District Kabirdham (CG)

---- **Petitioner**

Versus

Deepak @ Bittu Rajak S/o. Jaleshwar Rajak, aged about 28 years, R/o. Near Chandra Mauli Mandir, Badhwapara, Sarkanda, Police Station Sarkanda, District Bilaspur. (CG)

---- **Respondent**

Shri Dharmesh Shrivastava, counsel for the petitioner.
None for the respondent, though served and represented.

Order On Board

18/9/2015

By this order transfer petition (civil) filed by the petitioner seeking transfer of Civil Suit No.14A/15 (Deepak @ Bittu Rajak vs. Smt. Deepa Bai) under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights, pending before Judge Family court, Bilaspur to the Court of Judge Family Court Kabeerdhan, District kawardha is being disposed of.

2. As per facts of the petition, the petitioner and the respondent entered into wedlock on 25.4.12 as per Hindu customs and thereafter a girl child Ankita was born out of their wedlock, presently aged about one year, living with the petitioner. The petitioner has no independent source of income, depending on her parents and taking shelter in the house of her parents. She is handicapped and is facing financial constrain as she has to take care of her one year old girl child , she has no escort or help to attend the Court at Bilaspur. She has also filed litigation under Section 125 of the Cr.P.C which is presently pending before Judge, Family court Kabeerdham, district Kawardha. On behalf of the petitioner it is prayed that for the grounds mentioned above, the

civil suit filed by the respondent may be transferred from Bilaspur to Kabeerdham in the interest of justice.

3. The respondent is not represented, though power has filed on his behalf. There is no any response/objection on his behalf to the main petition, hence nothing on record as rebuttal and also nothing submitted orally against the facts of the instant petition.

4. Heard learned counsel for the petitioner present.

5. Learned counsel for the petitioner elaborately supported the contention as mentioned in the transfer petition and also submitted that on the basis of facts and circumstances and the ground taken in the main petition, the instant petition may be allowed and the concerned civil suit may be transferred accordingly.

6. For the purpose of appreciation regarding the prayer as made in the instant transfer petition, original petition, other annexed documents and material are perused.

7. On perusal of the entire material present in the matter, it goes to show that there is not rebuttal on behalf of the respondent on the facts that the respondent and the petitioner are legally wedded couple and their marriage was solemnized according to the Hindu customs and rituals and out of their wedlock a girl child was born, presently aged about one year. The petitioner has no independent source of income, depending on her parents. She is handicapped and is facing difficulty in attending the court proceedings at Bilaspur as there is no any supporting hand and also on account of financial constrain.

8. Looking to the entire facts mentioned in the petition and also surfaced as per the documents and materials annexed along with the

main petition, it would be appropriate to allow the petition regarding transfer of aforementioned civil suit from Bilaspur to Kawardha.

9. Consequently, the instant transfer petition is hereby allowed. It is ordered that Civil Suit No.14A/15 (Deepak @ Bittu Rajak vs. Smt. Deepa Bai) pending before Judge Family Court, Bilaspur under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights, be withdrawn and transferred to Judge Family Court, Kabeerdham distt. Kawardha for its disposal/trial in accordance with law.

10. Judge Family Court, Bilaspur is hereby directed to transfer the concerned records of the aforementioned civil suit immediately to the Judge Family Court, Kabeerdham, Distt. Kawardha for further proceedings. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE