

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 11 of 2015**

- Smt. Kirtibala Tripathi (Wrongly Mentioned As Hurani) W/o Vasudev Tripathi Aged About 25 years At Present R/O Masanganj, Bilaspur, P.S. Civil Lines, Distt. Bilaspur C.G.

---- Petitioner**Versus**

- Vasudev Tripathi S/o Kamta Prasad Tripathi R/O Kushalpur, P.S. Purani Basti, Distt. Raipur C.G.

---- Respondent

For Petitioners.	: Mr. Vimlesh Bajpai, Advocate.
For Respondent	: None though served.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****30/04/2015**

1. This order shall dispose of TP(C) No. 11/2015 filed by the petitioner seeking transfer of Civil Suit bearing HMA Case No. 249/2014 (Vasudev Tripathi -v- Smt. Kirtibala Tripathi) preferred under Section 13 of the Hindu Marriage Act (in brevity 'Act') for dissolution of marriage by a decree of divorce pending before 1st Additional Principal Judge, Family Court, Raipur to the Court of Judge, Family Court, Bilaspur.
2. As per facts of the petition, the petitioner and respondent are wife and husband. Their marriage was solemnized on 28-6-2012 at Bilaspur. After marriage, the petitioner filed MJC(J) No. 12/14 under Section 12 of the Protection of Women from Domestic Violence Act which is pending before JMFC, Bilaspur. After institution of this misc. case, non-applicant preferred a civil suit against the present petitioner under Section 13 of the Act which is pending before the Judge, Family Court, Raipur. The petitioner also instituted a civil suit bearing No. 179-A/2014 (year wrongly mentioned in the

copy Annexure P-2 as '20134') which is disposed of by the Judge, Family Court, Bilaspur vide judgment dated 16-10-2014 and the Court allowed the petition of the petitioner filed under Section 9 of the Act and directed the non-applicant to keep the petitioner and restore the conjugal relations and consume the marriage.

3. The petitioner has taken the ground that she is residing at village Durgdih, Tahsil Bilha, Distt. Bilaspur. MJC(J) No. 12/14 is pending for its disposal before the JMFC, Bilaspur. The petitioner without any attendant cannot travel to Raipur on each and every date of hearing. Hence it is prayed that the Civil Suit No. 249/14 be transferred from Family Court, Raipur to Family Court, Bilaspur.
4. No representation is made by the respondent despite service of notice.
5. Heard learned counsel for the petitioner.
6. Learned counsel for the petitioner submits that on the basis of the facts and ground mentioned in the petition, the petition may be allowed and the suit in question be transferred from Family Court, Raipur to Family Court, Bilaspur.
7. Perused the petition along the the documents annexed.
8. As per the facts and material available in the petition, the petitioner and respondent are wife and husband married on 28-6-2012 at Bilaspur. The petitioner is presently residing at Bilaspur. Above mentioned Civil Suit preferred after MJC (J) No. 12/14 which is pending for disposal before JMFC, Bilaspur. The respondent filed a Civil Suit under Section 13 of the Act bearing HMA Case No. 249/2014 which presently pending before the 1st Additional Principal Judge, Family Court, Raipur. As the petitioner prayed that she is facing hardship in appearing before the Court at Raipur and also as the connected matrimonial case regarding domestic violence is pending at Bilaspur, it would be convenient for her to contest both the cases at Bilaspur.

9. As there is none to contradict or rebut the pleading and the facts in the case, on entire consideration of the facts, the transfer petition is liable to be allowed. Hence the same is allowed. It is ordered that Civil Suit bearing HMA Case No. 249/2014 under Section 13 of the Act (Vasudev Tripathi -v- Smt. Kirtibala Tripathi) presently pending before the 1st Additional Principal Judge, Family Court, Raipur be withdrawn and transferred to the Judge, Family Court, Bilaspur for its trial/disposal in accordance with law. The 1st Additional Principal Judge, Family Court, Raipur is hereby directed to transmit immediately the concerned record towards Family Court, Bilaspur for further proceedings.
10. No order as to costs.

Chandra Bhushan Bajpai
Judge

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 17 of 2014**

- Smt. Mamta Agrawal W/o Ravindra Kumar Agrawal Aged About 34 years At Present R/O (Father Ramavtar Agrawal, Income Tax, Sale Tax, Advocate), Near Agrasen Bhavan, Bharkapara, Rajnandgaon, Tah. And Distt. Rajnandgaon C.G.

---- Petitioner**Versus**

- Ravindra Kumar Agrawal S/o K.K. Agrawal Aged About 36 Years R/O Sharda Vihar Colony, Qtr.No. Mig- I/103, Korba, Tah. And Distt. Korba C.G. & In Front Of Vijya Talkies, Transport Nagar, Korba, Tah. And Distt. Korba C.G.

---- Respondent

For Petitioner	: Mr. H.B. Agrawal, Sr. adv. with Ms. Meera Jaiswal, Adv
For Respondent	: Mr. P.R. Patankar, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****28/04/2015**

1. By this order, Transfer Petition (Civil) filed by the petitioner for transfer of Civil Suit No. 60-A/2014 (Ravindra Kumar Agrawal -v- Smt. Mamta Agrawal) filed under Section 13 of the Hindu Marriage Act (in brevity 'Act') presently pending before the Judge, Family Court, Korba to the Court of Judge, Family Court, Rajnandgaon is being disposed of.
2. Brief facts of the case are that the petitioner and the respondent are wife and husband. Their marriage was solemnized on 18-6-2006 as per Hindu rites. Out of the wedlock, two children namely Garvit Agrawal and Aditya Agrawan were born on 6-3-2008 and 10-2-2011 respectively. Presently they are residing with the petitioner.
3. The petitioner filed one petition under Section 125 of the Code of Criminal Procedure which is pending before the Judge, Family Court, Rajnandgaon bearing M.Cr.C. No. 196/2013. The petitioner also filed one civil suit under

Section 9 of the Act for restitution of conjugal rights bearing Civil Suit No. 140-A/2013. The respondent filed a civil suit before Judge, Family Court, Korba under Section 13 of the Act for dissolution of marriage by a decree of divorce as Civil Suit No. 60-A/2014. The petitioner is a lady. She cannot travel without escort. She is also maintaining two children and taking their care. Looking to the facts that the civil suit filed under Section 9 of the Act is also pending before the Family Court, Rajnandgaon, it would be appropriate that the suit under Section 13 of the Act for dissolution of marriage may also be disposed of by the same judge who is hearing the suit under Section 9 of the Act.

4. Heard learned counsel for the parties for disposal of this transfer petition.

5. Learned counsel for the petitioner elaborately supported the averments made in the petition and submitted that on the basis of the grounds taken in the petition, the petition may be allowed and the concerned civil suit may be transferred accordingly.
6. Learned counsel for the respondent opposed the petition and submitted that the petitioner has failed to prove her case, hence the petition may be dismissed as not maintainable.
7. In order to appreciate the arguments advanced on behalf of the parties, I have perused the material available in the petition.
8. There is no reply filed on behalf of the respondent. As per the material available in the transfer petition and the documents annexed with the petition, the petitioner and the respondent are wife and husband married on 18-6-2006 and out of the wedlock two children born one on 6-3-2008 and another on 20-2-2011 who are presently residing with the petitioner. The petitioner filed a petition for maintenance under Section 125 of the Cr.P.C. before the Judge, Family Court, Rajnandgaon bearing Misc. Cr. Case No.

196/2013. She also filed an application for restitution of conjugal rights under Section 9 of the Hindu Marriage Act which is also pending before the Judge, Family Court, Rajnandgaon bearing Civil Suit No. 140-A/2013. After the institution of the petition under Section 9 of the Act, the respondent filed a civil suit under Section 13 of the Act which is pending before the Judge, Family Court, Korba bearing Civil Suit No. 60-A/2014. As the petitioner filed petition under Section 9 of the Act prior to the petition filed by the respondent under Section 13 of the Act, also in view of the fact that the petitioner is a woman requires escort to appear before Korba court, she is also taking care of both the children born out of the wedlock, in the opinion of this Court, it would be appropriate that the petition under Section 9 of the Act and the petition under Section 13 of the Act may be heard and disposed of by the same judge to avoid any conflicting order. This Court is of the view that the petition filed by the petitioner is liable to be allowed.

9. Hence on due consideration, the transfer petition is hereby allowed. It is ordered that Civil Suit 60-A/14 pending before the Judge, Family Court, Korba be withdrawn and transferred to Judge, Family Court, Rajnandgaon for its trial/disposal in accordance with law. The Judge, Family Court, Korba is hereby directed to transmit immediately the concerned record towards Family Court, Rajnandgaon for further proceedings.

10. No orders as to cost.

Sd

Chandra Bhushan Bajpai

Judge