

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (Civil) No. 51 of 2015**

1. Smt. Manju Dubey Aged About 38 Years wife of Sunderlal Dubey, D/O Madhusudan Dubey, Caste- Bramhan, R/O Village- Tundra, Tahsil- Kasdol, P.S.- Bilaigarh, District- Balodabazar-Bhatapara, Chhattisgarh, At Present C/O Jaydev Dubey, Village & Post- Mandhar, Tahsil And District- Raipur, Chhattisgarh

---- Petitioner

Versus

1. Sunderlal Dubey Aged About 37 Yearas S/O Mahaveer Prasad, Caste- Bramhan, R/O Amora (Mahant), Police Station- Nawagarh, Tahsil- Nawagarh, District- Janjgir-Champa, Chhattisgarh

----Respondent

For Petitioner	: Shri D.N.Prajapati, Advocate
For Respondent	: Shri G.V.K. Rao, Advocate on behalf of Shri S.B. Pandey, Advocate

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**Order on Board****07/12/2015**

1. Heard.
2. By this order, Transfer Petition (Civil) filed by the petitioner seeking transfer of Civil Suit No. 30A/2015 (Sunder Lal Dubey Vs. Smt. Manju Dubey) pending before Judge, Family Court, Janjgir, District Janjgir Champa (CG) under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce to the Principal Judge, Raipur (CG) is being disposed of.
3. As per facts of the case in brief are that both the petitioner and respondent are legally wedded husband and wife. Their marriage was performed on 14.5.2011 according to Hindu rights and rituals. The petitioner is a house wife. She has no source of income and living along

with her parents at Mandhar, Tahsil and District Raipur (CG). She has also taken admission for B.Ed. Course at Bhilai. In the said Civil Suit, on 25.7.2015, the Court below has allowed Rs.4,000/- as one time amount towards Court expenses and Rs.340/- per hearing date for appearance of the petitioner as TA/DA. She had also filed an application under Section 125 of the Code of Criminal Procedure, 1973 (for short 'the Code') for maintenance against the respondent. The same is presently pending before the Principal Judge, Family Court, Raipur. On 1.12.2015, the respondent threatened and abuses her. She reported the matter to the Police at Janjgir and the Police has recorded the matter as an information of a non-cognizable offence under the relevant provisions of the Code. She is under fear that she may be subjected to further abuse or any incident. She is a lady; no one to escort her, hence it is not safe for her to travel from Mandhar to Janjgir Champa as the same is more than 100 kms away from her residential place. It is prayed on behalf of the petitioner that the matter may be transferred from Janjgir Champa to Raipur.

4. No return/reply has been filed on behalf of the respondent.

5. Heard counsel for the parties.

6. Learned counsel for the petitioner has supported the grounds and the facts mentioned in the present petition and submitted that the petition may be transferred from Janjgir Champa to Raipur.

7. On behalf of the respondent, the petition is opposed and learned counsel submitted that the respondent is presently working as a Home Guard at Janjgir Champa. The Court below granted travelling expenses and one time litigation cost. It would be inconvenient for the respondent to go to Raipur in hearing, therefore, the petition may be dismissed.

8. The arguments advanced on behalf of the parties heard and the record of the case is perused.

9. On a close scrutiny, it is surfaced that the petitioner and the respondent are husband and wife. Their marriage was performed on 14.5.2011 and therefore, on a developed circumstance, they are not living together. The applicant had filed an application under Section 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce, which is presently pending before the Judge, Family Court Janjgir Champa (CG). The non-applicant has no independent source of income. She is presently living with her parents and also preparing for B.Ed. Degree at Bhilai. The respondent is a Home Guard, posted at Janjgir Champa. The Court below vide order dated 25.7.2015 granted one time litigation cost along with Rs. 340/- per hearing date towards travelling allowance and other expenses. A petition under Section 125 of the Code is also pending before the Judge, Family Court, Raipur. From perusal of report dated 1.12.2015 before Janjgir Police, it shows that there was some dispute between the parties and as the parties are husband and wife, Police denied for any cognizance. Further a point to note that though it is written in the report that there are abuses during hearing, but the report itself is not satisfying what abuses were between the parties. The non-applicant is a Home Guard, presently posted at Janjgir Champa. As one another litigation regarding maintenance is also pending and looking to the other facts it would be appropriate to allow the petition and transfer the matter from Janjgir Champa to Raipur.

10. Consequently, the Transfer Petition filed by the petitioner is allowed. It is ordered that Civil Suit No.30A/2015 (Sunder Lal Dubey Vs. Smt. Manju Dubey) under Section 13 of the Hindu Marriage Act for

dissolution of marriage by a decree of divorce pending before the Judge, Family Court, Janjgir Champa is withdrawn and transferred to Principal Judge Family Court, Raipur for its disposal in accordance with law. The Judge, Family Court, Janjgir Champa is directed to transmit immediately the concerned records to the concerned Court for further proceedings.

11. No order as to cost.

Sd/

(Chandra Bhushan Bajpai)
JUDGE