

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 27 of 2014

1. Shailbala Verma W/o Anand Verma Aged About 26 years R/O Ahiwara, New Subjee Market, Near Govt. High School, Ahiwara, Distt. Durg C.G.

---- Petitioner

Versus

1. Anand Verma S/o Shish Kumar Verma Aged About 35 Years R/O Naya-para Ward, Tah. Bhatapara, Distt. Baloda Bazar-Bhatapara C.G.

---- Respondent

For Petitioner – Shri N.K.Chaterjee, Advocate.
For Respondent – Shri Y.C.Sharma, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

11/03/2015

(1) By this order transfer petition (c) filed by the petitioner seeking transfer of Civil Suit No.H-01/14 (Anand Verma v. Shailbala Verma) pending in the Court of Additional District Judge, Bhatapara (C.G.) to the Court of Principal Judge, Family Court, Durg (C.G.) is being disposed of.

(2) As per facts of the transfer petition, the petitioner and the respondent married on 10-12-2006 with Hindu rituals and for a few years they passed conjugal life. The respondent filed a suit for dissolution of marriage by decree of divorce before the Additional District Judge, Bhatapara, registered as case No.H-01/14 which is pending before the concerned Court. The petitioner is unemployed and dependent on her father, her father is a paralytic patient who can walk only by support due to injury in the left upper lower limb. The petitioner is having inconvenience in reaching from Ahiwara to Durg which is

25 kms. away and thereafter from Durg to Bhatapara which is at far distance. A litigation regarding maintenance is filed and contested between the parties at Durg. On account of being a lady inconvenience to her to attend the Court at Bhatapara and her father is not medically in a position to come along with her, the case may be transferred from Bhatapara to Durg.

(3) The respondent filed a written response of the application filed under Section 24 of the CPC and submitted that the applicant/petitioner used to frequently visit her parental house at Ahiwara from her matrimonial house at Bhatapara that too without permission or knowledge of the present respondent, and by this, the present applicant/petitioner is used to travel alone from to and fro Bhatapara to Ahiwara, so she can easily move from Ahiwara to Durg and from Durg to Bhatapara. It is further submitted that she is praying for transfer of the case at Durg, this also 25 kms. away from her place of present resident. Since there is no inconvenience and genuine problem, hence the transfer petition may be dismissed.

(4) I have heard learned counsel for the parties.

(5) Learned counsel for the petitioner elaborately supported his contention made above in the petition and submitted that with the facts and circumstances shown in the present petition, the petition may be allowed and the concerned civil suit may be transferred accordingly.

(6) Learned counsel for the respondent submitted that if the petitioner can come to attend the case at Durg from Ahiwara, 25 kms., she can very well attend the Court hearing at Bhatapara; she used to travel from Bhatapara to Ahiwara, hence, there is not inconvenience for the petitioner for attending Court at Bhatapara. Hence, the petition may be dismissed.

(7) In order to appreciate the arguments advanced on behalf of the parties, I have perused the petition, reply and the documents adduced by the parties.

(8) As appeared from the petition, the petitioner is 26 years young lady. She is unemployed solely dependent on her father, presently residing with her father at Ahiwara with no independent source for her maintenance. As per the document, father of the petitioner is a paralytic patient who requires support. The facts appearing would go to show that the respondent is employed person as Junior Engineer at a company of Electricity Board presently posted at Hathband which goes to show that he is having sufficient means to attend Court proceedings even at Durg. Father of the petitioner is paralytic; Bhatapara is almost 100 kms. away from Durg apart from the distance of 25 kms. from Ahiwara to Durg; if the matter of convenience be assessed, it goes to show and also admitted during the argument on behalf of the respondent that the maintenance litigation between the parties is contested at Durg Court. Learned counsel for the respondent also submitted that even presently some litigation regarding maintenance is pending at Durg, though these facts are not supported by any document on behalf of the respondent, but if so, if the maintenance litigation is pending at Durg Court then it would be more convenient also for the respondent to attend both the cases at Durg. So far as the fact regarding the petitioner being used to travel from Ahiwara to Bhatapara is concerned, this is the allegation made in the petition under Section 13 of the Hindu Marriage Act by the respondent which requires corroboration during trial. The petitioner is already coming from Ahiwara to Durg to attend Court proceedings which itself may be inconvenient for her but she gave her appearance in the maintenance litigation before Durg Court, as per pleadings.

(9) Looking to the entire facts and circumstances, in view of this Court, it would be appropriate to transfer the case pending at Bhatapara to Principal Judge, Family Court, Durg, it would be convenient for both the parties and even with this the petitioner has to travel for 25 kms. but this will help the

petitioner for not traveling more 100 kms. till Bhatapara with inconvenience.

(10) Consequently, the transfer petition (C) filed by the petitioner is hereby allowed and it is ordered that Civil Suit No.H-01/14 (Anand Verma v. Shailbala Verma) pending before the Court of Additional District Judge, Bhatapara under Section 13 of the Hindu Marriage Act be withdrawn and transferred to Principal Judge, Family Court, Durg for its trial/disposal in accordance with law. The Additional District Judge, Bhatapara is hereby directed to transmit immediately the concerned record towards Principal Judge, Family Court, Durg for further proceedings.

(11) No order as to cost.

Sd/-

JUDGE

