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HIGH COURT OF CHHATTISGARH, BILASPUR

Transfer Petition (C) No.3 of 2016

Smt. Navita Dixit, W/o Vijay Dixit, aged 40 years, posted as Head Master, Shaskiya Naveen Prathmik Shala, Lavan, Tahsil Lavan, District Baloda Bazar, Chhattisgarh

---- Petitioner

versus

Vijay Dixit, S/o Late Ganga Narayan Dixit, aged 44 years, R/o Behind Football Ground, Ward No.3, Vallabh Nagar, 256 Chawk, Dalli Rajhara, P.S. Dalli Rajhara, Tahsil Daundi, District Balod, Chhattisgarh

---- Respondent

For Petitioner	:	Shri Tarendra Kumar Jha, Advocate
For Respondent	:	Shri B.L. Sahu, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice

Order on Board

16.9.2016

1. This petition by the wife has been filed for transfer of Case No.41A of 2015 filed by the husband for restitution of conjugal rights under Section 9 of the Hindu Marriage Act in the Court of Family Judge, Balod. It is not disputed that the parties were married to each other. The wife initially filed a complaint under Section 12 of the Domestic Violence Act against the husband on 13.8.2015 in the Court of Chief Judicial Magistrate, Baloda Bazar. The husband thereafter on 16.11.2015 filed a petition under Section 9 of the Hindu Marriage Act. The wife submits that she being a lady should not be asked to travel to a long distance of 200 Kms. from Baloda Bazar to Balod to attend the case in the Court at Balod. The further submission of the wife is that the application for restitution of conjugal rights filed by the husband is only a counter blast to the complaint filed by the wife under the Domestic Violence Act.
2. On the other hand, on behalf of the husband, it is stated that the

husband is ready and willing to live with the wife. If things were so simple then there would not have been cases and counter cases against each other. This Court had felt that there are elements of resolution of the disputes and, therefore, the matter was referred to mediation, but the mediation proceedings have failed. Now transfer petition has to be decided. It is not disputed that the Petitioner/wife is a Head Master and is a Government employee. On the other hand, Respondent/husband is working as a Teacher in a private school. This itself would indicate that the wife is earning more than the husband. There are no children, therefore, there would be no inconvenience to the wife if she travels to Balod. Reliance has been placed by Learned Counsel appearing for the Petitioner/wife on the judgment in **Anjali Ashok Sadhwani v. Ashok Kishinchand Sadhwani, AIR 2009 SC 1374**. There, the case was filed in Bombay, whereas the wife lived in Indore. The judgment in this case does not lay any principle of law that every civil case must be transferred.

3. For the reasons stated by me above, I do not feel that the wife will be in inconvenience if she travels to Balod, therefore, the transfer petition is dismissed.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE