

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 64 of 2016

1. Smt. Rekha @ Sita W/o Ramchandra Patre, aged about 28 years R/o Village & Post- Mohgaon, Police Station- Pandatarai, Tehsil- Pandariya, Civil and Revenue District- Kabirdham (CG)

---- Petitioner

Versus

1. Ramchandra Patre S/o Mansharam Patre, aged about 33 years R/o Near Ashish Pan Palace, Newai, Police Station- Newai, Bhilai, Civil and Revenue District- Durg (CG)

---- Respondent

For Petitioner	:	Shri Dharmesh Shrivastava, Advocate
For Respondent	:	None though served.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

29/11/2016

1. The petitioner herein is the wife of the respondent. Marriage of the parties was solemnized at village Mohgaon, District Kabirdham on 20.6.2008 and out of their wedlock, four children have born who are residing with the petitioner at village Mohgaon. It is the case of the petitioner that on account of the cruelty and torture committed upon her by respondent and his mother started, she has left her matrimonial home in 2015 and started living with her parents i.e. at village Mohagaon, District Kabirdham. Respondent-husband filed an application under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the Court at Durg. The petitioner has filed this petition under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of Civil Suit No.296/2016 pending before the Principal Judge, Family Court, Durg to a Court of competent jurisdiction at Kawardha on the ground that ;

- the petitioner is living at her parental house where except her aged father, there is no other male member to accompany her to attend the case at Durg.
- She has four minor children aged about 01, 03, 05 & 07 years; distance between Durg and Kawardha is about 100 km, therefore, it gets very difficult for the petitioner to attend the Court at Durg on every date of hearing.
- the petitioner has no relation at Durg and therefore it is difficult for her being a lady to stay there even for a day and to contest the case.

2. Heard learned counsel for the parties and perused the material on record.
3. Considering the facts and circumstances of the case, in particular the fact that the petitioner, a lady having responsibility of four minor children, has to travel a long distance of 100 kilometer all alone to attend the case at Durg where she has no relation, in view of the judgment of the Hon'ble Apex Court in the matters of Amita Shah vs. Virendra Lal Shah (2003) 10 SCC 609 & Simi Mehrotra vs. Anil Mehrotra (2002) 10 SCC 70, the transfer petition is allowed.
4. Consequently, Civil Suit No.296/16 (Ramchandra Patre vs. Smt. Rekha @ Sita) pending before the Court at Durg is hereby withdrawn and transferred to the Family Court at Kabirdham, District Kawardha.
5. Parties to appear before the Principal Judge, Family Court, Kabirdham, District Kawardha on **21.12.2016**. In case the respondent failed to appear on the said date, the Court below would be obliged to issue notice to him.

Sd/-

(Pritinker Diwaker)
Judge

roshan