

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 43 of 2017**

- Chanchal Kaushik W/o Prakash Kumar Sen, Aged About 26 Years R/o Block 3-J, Street Avenue, Sector-6, Bhilai, District Durg, Chhattisgarh

---- Petitioner

Versus

- Prakash Kumar Sen S/o Shri S.L.Sen, Aged About 36 Years Occupation Lecturer (Mechanical), K.T.I. Raigah, R/o Plot No.105, Panchvati Nagar, Boirdadar, Raigarh, Tahsil & District Raigarh, Chhattisgarh

---- Respondent

For Petitioner	:	Shri A.D.Kuldeep, Adv.
For Respondent	:	Shri Abhishek Saraf, Adv.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****25/10/2017**

1. This is the petition preferred under Section 24 of the Code of Civil Procedure, 1908 (hereinafter referred to as the Code of 1908 in short) by the petitioner/wife for transfer of Civil Suit No. 111-A/2017 filed by the respondent/husband from the Family Court, Raigarh to Family Court, Durg.

2. The undisputed facts of the case are that the marriage between the parties was solemnised on 30.04.2015 according to Hindu rites and rituals, but due to matrimonial dispute, they have been living separately. It is submitted by the petitioner that within the period of one year of marriage, the respondent has filed a petition under Section 13 of the Hindu Marriage Act, 1955 before the learned Family Court, Raigarh for grant of decree of divorce. It is submitted further that the petitioner is residing at Bhilai, which is 400 kilometers away from the Raigarh, and therefore, it is difficult for her to attend on each and every hearing at the Family Court, Raigarh. It would be just and proper to transfer the Civil Suit No. 111-A/2017 from the Family Court, Raigarh to Family Court, Durg.

3. Per contra, the respondent contested the claim of the petitioner by

submitting, inter alia, that the petitioner/wife has appeared before the Family Court, Raigarh, on 03.05.2016 and has been continuously appearing since then. It is contested further that after appearance, the petitioner has also submitted an application under Section 24 of the Hindu Marriage Act, 1955 on 13.06.2016. The said application was considered by the said Family Court and vide order dated 21.12.2016, the said application was allowed granting litigation charges as well as travelling charges to the petitioner/wife.

4. During the course of arguments, Shri Abhishek Saraf, learned counsel for the respondent has produced photocopies of relevant order sheets of the Family Court, Raigarh, which are taken on record. Perusal of the order sheets would clearly show that the petitioner/wife has appeared before the Family Court, Raigarh, on 03.05.2016 and has been continuously appearing since then. This apart, the Family Court, Raigarh has also granted litigation as well as travelling charges making her convenient to attend the Family Court at Raigarh on each and every date of hearing.

5. In view of the aforesaid facts and circumstances of the case and particularly when the petitioner has suppressed the material facts that her application filed under Section 24 of the Hindu Marriage Act was allowed vide order dated 21.12.2016, I see no reason to entertain this transfer petition. Accordingly, this transfer petition is liable to be and is hereby dismissed. No order as to costs.

Sd/-

(Sanjay Agrawal)
Judge