

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C.) No. 31 OF 2017**

Smt. Papiya Majumdar W/o Raja Majumdar, Aged About 34 Years R/o Sharda Vihar, Near Shiv Mandir, Korba, District Korba, Chhattisgarh(Non Applicant)

---- Petitioner**Versus**

Raja Majumdar S/o Dilip Majumdar, Aged About 34 Years R/o Mopka Vivekananda Nagar, Sarkanda, District Bilaspur, Chhattisgarh (Applicant)

---- Respondent

For Petitioner	:	Ms. Binu Sharma, Advocate
For Respondent	:	Mr. Devesh G. Kela, Advocate

Hon'ble Shri Sanjay Agrawal, J.**Order On Board****06/09/2017**

Heard on admission.

1. This is a transfer petition preferred under Section 24 of the Code of Civil Procedure, 1908 by the petitioner- Smt. Papiya Majumdar for transfer of divorce proceeding registered as Civil Suit No.123-A/2016 from the Family Court, Bilaspur to Family Court, Korba.

2. Ms. Binu Sharma, learned counsel for the petitioner submits that the marriage of petitioner with respondent was solemnized on 09/12/2009 at Korba and out of their wedlock, a minor child aged about 5 years is born and since petitioner is living along with her old parents and child, therefore, it is difficult for her to attend each and every date of hearing before the Family Court, Bilaspur. It is submitted further that in order to maintain herself and to her minor child she

has applied for a job as a teacher and selected as such in Delhi Public School at Korba and therefore, it is difficult for her to attend the Family Court, Bilaspur in all the hearings as the difference between these two places is almost 120 Kms. It is submitted further in the petition that the father of the petitioner has passed away and she is living with her aged mother, minor child and younger brother, therefore, it will be difficult for her to travel on bus for attending the Court at Bilaspur on each hearing. She further submits that under such circumstances the matter may be transferred from the Family Court, Bilaspur to Family Court, Korba as a petition for maintenance under Section 125 of the Code of Criminal Procedure, 1973 is already pending before the Family Court at Korba. She further submits that one more matter which was filed by her under the provisions of Protection of Women From Domestic Violence Act, 2005 is also pending before the Judicial Magistrate First Class, Korba. Therefore, in view of these facts, it is submitted by the petitioner that the matter bearing Civil Suit No. 123-A/2016 pending before the Family Court, Bilaspur be transferred to the Family Court, Korba.

3. On the other hand, Mr. Devesh G. Kela, learned counsel for the respondent contested the aforesaid petition and stated that the evidence of the respondent has already been examined and his mother's evidence is going to be cross-examined and case was directed to be listed on 12/09/2017. It is contested further on the ground that the instant transfer petition has been filed to harass the respondent, therefore, at the fag end of the said proceeding initiated under Section 13(1)(a) of the Hindu Marriage Act, 1955 pending before the Family Court, Bilaspur does not require to be transferred to the Family Court, Korba as claimed by the petitioner.

4. I have heard learned counsel for the parties and perused the entire record carefully.

5. Perusal of the record would show that a petition under Section 13(1)(a) of the Hindu Marriage Act, 1955 has been filed by respondent Raja Majumdar against his wife/petitioner Smt. Papiya Majumdar on 09/03/2016. Upon receiving the summons of the said proceeding, the petitioner appeared and contested the said proceeding on several dates and had also submitted an application as per the provisions prescribed under Section 24 of the Hindu Marriage Act, 1955. The said application was considered by the concerned Family Court and allowed the same vide its order dated 14/10/2016, however, the said order was reversed subsequently by its order dated 24/06/2017. Be that as it may, the order sheets as produced before this Court during the course of the argument, which is taken on record, would show that the evidence of the respondent Raja Majumdar was concluded on 22/08/2017 and case was further directed to be listed on 31/08/2017. Since the trial has already been commenced by examining the evidence of the parties, therefore, under such circumstances, I am not inclined to transfer the said Civil Suit No. 123-A/2016 pending before the Family Court, Bilaspur to Family Court, Korba.

6. Consequently, the transfer petition deserves to be and is hereby dismissed at admission stage itself. No order as to costs.

Sd/-
(Sanjay Agrawal)
Judge