

HIGH COURT OF CHHATTISGARH, BILASPUR
T.P.(C) No.54 of 2016

Arjun Singh Banjare S/o Shri N.L.Banjare, Aged About 29 Years R/o Borsi Bhata, Ward No.50, Tahsil & District- Durg, Chhattisgarh

---- **Petitioner**

Versus

Smt. Archana Banjare W/o Arjun Singh Banjare, Aged About 28 Years R/o Quarter No. 638-640/4/2 A Balco Nagar, Tah. & Distt. Korba, Chhattisgarh

---- **Respondent**

For Petitioner:	Shri Rahul Tamaskar, Advocate.
For Respondent:	Shri Gurudev I Sharan, Advocate

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

12.09.2017

1. This is a Petition preferred under Section 24 of the Code of Civil Procedure, 1908 (for short 'the CPC') by Petitioner Arjun Singh Banjare praying for transfer of Civil Suit No.128-A/2014 from the Family Court, Korba to the Family Court, Durg.

2. Shri Rahul Tamaskar, learned Counsel for the Petitioner submits that the Respondent/wife Smt Archana Banjare has submitted an application under Section 13 of the Hindu Marriage Act, 1955 before the Family Court, Korba on 27.09.2014. The said suit was registered as Civil Suit No.128-A/2014. It is submitted that prior to institution of the said proceedings, an application enumerated under Section 9 of the Hindu Marriage Act was filed by the Petitioner before the Family Court, Durg, on 24.02.2014, therefore, under such circumstances, it would be just and proper to transfer Civil Suit No.128-A/2014

from Family Court, Korba to Family Court, Durg.

3. On the other hand, Shri Gurudev I. Sharan, learned Counsel for the Respondent has opposed the said application and submitted that the Respondent has initiated the divorce proceedings on 27.9.2014 and after two years, the instant Transfer Petition has been made, therefore, after such a long time, the said suit does not require to be transferred from Family Court, Korba to Family Court, Durg on the basis of this Transfer Petition. He further submits that mere filing of the restitution proceedings prior to initiation of divorce proceedings would not give any entitlement to the Petitioner to get the said Civil Suit No.128-A/2014 transferred from Family Court, Korba to Family Court, Durg. He therefore submits that the Petition deserves to be rejected.

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

5. On 27.9.2014, an application under Section 13 of the Hindu Marriage Act has been filed by the Respondent Smt Archana Banjare against her husband, the Petitioner herein. The said suit was registered as Civil Suit No.128-A/2014. The submission of Shri Rahul Tamaskar is that since prior to initiation of these divorce proceedings, an application for restitution of conjugal rights was already made by him, therefore, the said Civil Suit may be transferred from Family Court, Korba to Family Court, Durg. However, the said contention cannot be accepted merely on this ground. Moreover, the suit was filed on 27.9.2014 and two years thereafter, the instant Transfer Petition has been filed. Besides, during the course of the arguments, it was pointed out by both the parties that the matter is already in evidence stage and the trial Court has already closed the Respondent's evidence, therefore, under such circumstances, I do not find any legal ground so as to transfer the said matter

from Family Court, Korba to the Family Court, Durg.

6. Consequently, the Petition being devoid of merits, is hereby dismissed at the admission stage. No order as to costs.

Sd/-
(Sanjay Agrawal)
JUDGE

Priya