

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Transfer Petition (Civil) No.73 of 2016

Chaiti Bai, W/o Lalit, D/o Manglu Yadav, aged about 22 years, R/o Bandhi Talab, Ganjpara, Durg, District Durg (C.G.)

(Non-applicant)
---- Petitioner

Versus

Lalit, S/o Chintu Ram Yadav, aged about 27 years, R/o Tikari Para, Gandai, Bhurbhusi Road, Tahsil Chuikhadan, District Rajnandgaon (C.G.)

(Applicant)
---- Respondent

For Petitioner: Mr. Ajay Shrivastava, Advocate.
For Respondent: None present though served.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

07/02/2017

1. Learned counsel for the petitioner submits that the respondent has filed an application for restitution of conjugal rights at Link Court, Khairagarh in which the petitioner has received notice. As the petitioner is staying at Durg with her father and she has no separate / independent source of earning, the case pending at Link Court, Khairagarh be transferred to Family Court, Durg. Learned counsel placed reliance upon a decision of the Supreme Court in the matter of **J. Durga Debi v. Venkata Bala Subramani**¹.
2. None appeared on behalf of the respondent despite service.
3. Undisputedly, the petitioner's application under Section 125 of the CrPC is being tried at Family Court, Durg and distance between Durg

¹ (2004) 13 SCC 689

to Khairagarh is 80 Kms.. The petitioner along with her four years son is staying with her father and she is unemployed having no independent source of income. Therefore, relying upon the decision of the Supreme Court rendered in **J. Durga Debi** (supra), it would be expedient to try both the cases i.e. the application for restitution of conjugal rights filed by the respondent and the application for maintenance under Section 125 of the CrPC filed by the petitioner, together at Family Court, Durg.

4. In the circumstances, it is directed that the application for restitution of conjugal rights filed before the Family Court, Rajnandgaon (Link Court, Khairagarh) i.e. Civil Suit No.19-A/2016 (Lalit v. Chaiti Bai) be transferred to Family Court, Durg, for hearing and disposal, in accordance with law.
5. With the aforesaid direction, the transfer petition stands finally disposed of. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge