

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (Civil) No. 84 OF 2016**

Smt. Nandini Khatri @ Laxmi Khatri, aged about 30 years, W/o Harish Khatri, C/o Basudev Bajaj @ Raju Bajaj, Radio Center, Kera Road, Naila (Janjgir) Tahsil and District Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

Harish Khatri S/o Shri Khem Chandra Khatri, aged about 33 Years R/o Sindhi Colony, Chakradharnagar, Raigarh, Present resident Sanjay Nagar, Tahsil & District Raigarh, Chhattisgarh

---- Respondent

For Petitioner	:	Ms. Sarina Khan and Ms. M. Asha, Advocates
For Respondent	:	Mr. Akhand Pratap, Advocate

Hon'ble Shri Sanjay Agrawal, J.**Order On Board****21/08/2017**

Heard on admission.

1. This is a transfer petition preferred under Section 24 of the Code of Civil Procedure, 1908 by the petitioner Smt. Nandini Khatri @ Laxmi Khatri for transfer of divorce petition bearing No. F-171A/2016 pending before the Family Court, Raigarh to Family Court, Janjgir Champa.
2. It is pleaded in the application that the marriage between the parties was solemnized on 12/12/2009 at Raigarh as per Hindu rites and customs and out of their wedlock, one male child namely, Paras (Bittu) was born on 11/03/2012. It is pleaded further that the said child is living with the petitioner. After solemnization of the marriage, petitioner's behavior was not proper and she was subjected to physical assault and therefore, it was very difficult for her to live with her

matrimonial house. It is pleaded further that immediately after obtaining the decree for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'Act of 1955'), petition for divorce under Section 13 of the Act of 1955 has been filed by the respondent on 29/11/2016.

3. Learned counsel for the petitioner submits that the petitioner is suffering from heart disease since long and she is living along with her four years aged child, therefore, it was difficult for her to attend each and every hearing before the Family Court at Raigarh. In view of this fact, she prayed for transfer of the said divorce petition from the Family Court, Raigarh to Family Court Janjgir-Champa.

4. On the other hand, learned counsel for the respondent opposes the said prayer and submits that upon receiving the summons of the said suit, the petitioner was appeared before the Family Court at Raigarh and applied for litigation charges as well as the travelling charges by filing an application under Section 24 of the Act of 1955. The said application was allowed and the petitioner is receiving the said amount, therefore, under such circumstances, the petition deserves to be rejected.

5. I have heard learned counsel for the parties and perused the entire record annexed with the petition.

6. Undisputedly, the marriage between the parties was solemnized on 12/12/2009 at Raigarh. A petition for divorce enumerated under Section 13 of the Act of 1955 has been initiated by the respondent/husband before the Family Court at Raigarh. Upon receiving the summons of the said suit, the petitioner Smt. Nandini Khatri @ Laxmi Khatri appeared before the said Family Court on 20/12/2016 and immediately thereafter, the instant transfer petition has been filed before this Court on 21/12/2016. The order-sheets of the trial Court would

reveal that after appearing before the Family Court at Raigarh, the petitioner has moved an application under Section 24 of the Act of 1955 on 28/01/2017 claiming the litigation charges as well as the travelling charges. Upon consideration of the said application, the same was allowed on 10/04/2017 and it was directed to the respondent to pay a sum of Rs. 5,000/- towards litigation charges and a sum of Rs. 500/- towards travelling charges per hearing and the petitioner is thus availing the said benefit. Even otherwise, I do not find any legal ground so as to direct for the transfer of said divorce proceedings as claimed by the petitioner. Therefore, I am not inclined to transfer the said divorce petition from the Family Court, Raigarh to Family Court, Janjgir Champa.

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

Sd/-

(Sanjay Agrawal)
Judge