

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No. 26 of 2017**

1. Smt. Nirmala Sahu W/o Shri Omprakash Sahu, aged about 32 years, daughter of Pokhanlal Sahu, Caste- Teli
2. Kumari Purvi Sahu, daughter of Omprakash Sahu, aged about 04 years
 Petitioner No. 2 is a being minor through her natural guardian Smt. Nirmala Sahu, wife of Omprakash Sahu
 Both are resident of Village Dubha, Post Office Dharampura, Police Station Pipariya, District- Kabirdham, Chhattisgarh

---- Applicant**Versus**

Omprakash Sahu, Son of Tularam Sahu aged about 35 years, Caste- Teli R/o Village- Koylari, Police Station Lalpur, Tehsil Lormi, District- Mungeli, Chhattisgarh

---- Respondent

For Applicant	:	Mr. P.P. Sahu, Advocate
For Respondent	:	Mr. Akhilesh Kumar

Hon'ble Shri Justice Arvind Singh Chandel
Order on Board

19/02/2018

1. This petition under Section 24 of the Code of Civil Procedure, 1908 is filed by the applicant praying for transfer of Civil Suit No. H61A/2016 preferred under Section 9 of the Hindu Marriage Act, 1955 (henceforth 'the Act of 1955') pending before the Additional District Judge, Mungeli to the Family Court at Kabirdham, District- Kawardha on the ground that she, being a poor lady residing at remote village, is unable to travel from her village to Mungeli frequently.
2. Learned counsel appearing on behalf of the applicants submits that the marriage between the parties was solemnized on 05/05/2011. Out of their wedlock, applicant no. 2 was born in the month of October, 2012.

After some time, respondent-husband and his parents started cruelty with the applicant-wife and also harassed her for one and another reason. When she became ill then they have not get the treatment of her and had sent her to her parent's house for getting the treatment. Thereafter, the respondent did not take care of her nor she was taken by her husband, therefore, she filed an application under Section 125 of Cr.P.C. at Kawardha. The learned Family Court after consideration had awarded to pay the maintenance to the applicants. Thereafter, only to protect himself from the payment of amount of maintenance, the husband had filed an application under Section 9 of the Act of 1955 for restitution of conjugal rights before the Family Court, Mungeli. He further submits that since applicant no. 1 is having a small child of 4 years and it will be very difficult for her to appear on each and every date of hearing before the Family Court, Mungeli. There is no one to accompany the applicants for traveling from Village- Dubha to Mungeli which is about 95 Kms away from her village. The respondent is working as Shiksha Karmi and being a male he can very well reach to the Court at Kabirdham without any difficulty.

3. On the other hand, counsel appearing on behalf of the respondent has opposed the arguments advanced by the counsel appearing on behalf of the applicants and submits that no reasonable ground has been shown by the applicants for transfer of the case, therefore, her petition may be dismissed.
4. I have heard learned counsel appearing for the parties and perused the petition and the documents annexed thereto with due care.

5. Considering the facts and circumstances of the case, particularly, the fact that the distance from Village- Dubha to Mungeli is about 95 Kms and further considering the fact that applicant no. 1 is a lady having four years child would be in difficulty to see the case pending before the Family Court, Mungeli, I am inclined to transfer the said case pending before the Family Court, Mungeli to Family Court, Kabirdham.
6. Consequently, the transfer petition is allowed. It is directed that the Civil Suit No. H61A/2016 pending before the Additional District Judge, Mungeli be transferred to the Family Court, Kabirdham for its hearing and disposal in accordance with law. The said transfer shall be made effective before 27/03/2018. The parties shall now appear before the Family Court, Kabirdham on 06/04/2018. It is further directed that the civil suit shall be decided as early as possible, preferably within a period of six months.
7. No order as to cost.

Sd/-
(Arvind Singh Chandel)
Judge