

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 1 of 2018**

Smt. K. Lekha W/o K.Ravi Kumar, Aged About 29 Years D/o Shri D.Murli, R/o House No. H-11-51, Sector-01, Pt. Deendayal Uppadhyay Nagar, Raipur, District Raipur, Chhattisgarh*Non-Applicant* before Trial Court, --- **Petitioner**

Versus

K. Ravikumar S/o K.Ramarao, Aged About 35 Years R/o Amarkantak Road, Gaurela, Tahsil Pendra Road, District Bilaspur, Chhattisgarh*Applicant* before trial Court, Chhattisgarh.----
Respondent

For the applicant : Mr. Malay Kumar Bhaduri, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board**24.08.2018**

1. Despite service of notice to the respondent, no one appears on his behalf the respondent even when the matter is called out in second round, therefore, the matter is heard finally in absence of counsel for the respondent.
2. The instant petition is by the wife for transfer of Civil Suit No.19-A/2017 filed by the husband against her in Pendra Road, Distt. Bilaspur to Raipur.
3. It is contended by the petitioner wife that a divorce petition has been filed u/s 13 of the Hindu Marriage Act, 1955 by the respondent before the Addl. District Judge, Pendra Road, Distt. Bilaspur and the wife is living in Raipur which is 200 kms., away from Pendra Road where the proceedings are pending. It is further contended that the petitioner is mother of child aged about two and half years old and she has no independent income. It is submitted that the child is

suffering from fits and is physically and mentally weak, for which, the petitioner is providing treatment at AIMS, Raipur, therefore, it will be extremely difficult for the wife to attend the Court at Pendra which is 200 Kms., away from Raipur. Learned counsel further submits that even the application for maintenance which has been prayed is dismissed. Consequently looking to the distance between the Pendra Road and Raipur as also the other difficulties especially the wife is required to provide treatment for the child, the case may be transferred to the competent family court at Raipur.

4. No representation is made by the respondent even on second call despite service of notice.
5. Perused the document filed along-with the petition. A perusal of the record would show that the husband has filed an application for divorce u/s 13 of the Hindu Marriage Act before the Court at Pendra District Bilaspur. The copy medical document i.e., outpatient card shows that the child is suffering from spastic quadriplegia with seizure disorder and was advised physiotherapy.
6. During the course of argument, the certified copy of the order dated 04.07.2008 was shown wherein it purports that the maintenance which was prayed by the wife in the divorce case has been dismissed by the court below. Under the circumstances, evaluating the convenience of both the parties and considering the welfare of child coupled with the fact that the wife has to travel 200 kms., from Raipur to Pendra and further the maintenance has been disallowed by the Court below to the wife to contest the petition for divorce, it is directed that the case bearing Civil Suit No.19-

A/2017 pending before the Additional District Judge, Pendra, Road, Distt. Bilaspur filed by husband K. Ravi Kumar against the petitioner wife shall stand transferred to the Family Court of Principal Judge, Raipur. Before transfer of the case to Family Court, Raipur, the Addl. District Judge, Pendra shall fix a date of appearance of both the parties before the Court of Principal Judge, Family Court, Raipur, so that the respondent who is not represented herein is aware of the next date of hearing before the Family Court, Raipur.

7. With the above observation/direction, this petition stands final disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**