

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No. 54 of 2017**

Smt. Jayanti Goswami, W/o Shri Takeshwar @ Satish Giri Goswami, Aged About 30 Years, Village Mahadevpali, Police Station Chandrapur, District Janjgir Champa Chhattisgarh.

---- Petitioner

Versus

Takeshwar @ Satish Giri Goswami, S/o Shri Doman Prakash Giri Goswami, Aged About 36 Years, R/o Village Khamharmuda, Police Station Bhimkhoj Khallari, Tahsil Bagbahra, District Mahasamund Chhattisgarh.

---- Respondent

For Petitioner : Shri Rishi Rahul Soni, Advocate.

For Respondent : Shri Gurudev I. Sharan, Advocate.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****26.06.2018**

1. Heard on admission.
2. This petition has been filed under Section 24 of the Code of Civil Procedure, 1908 praying for transfer of Civil Suit No. 34-A/2017 pending before the Family Court, Mahasamund to Family Court, Janjgir-Champa.
3. Undisputed facts of the case are that the Respondent namely, Takeshwar instituted an application on 21.08.2017 praying for dissolution of marriage under Section 13 of the Hindu Marriage Act, 1955 before the Family Court, Mahasamund, where the case has been registered as Civil Suit No. 34-A/2017. Prior to the filing of the said application, petitioner Smt. Jayanti Goswami has initiated the proceedings for maintenance as provided under Section 125 of the Code of Criminal Procedure, 1973 before the Judicial Magistrate, First

Class Dhabhara, District Janjgir-Champa, where it has been registered as Miscellaneous Criminal Case No. 02/2016.

4. It is submitted by Shri Soni, learned counsel for the petitioner that the petitioner is a helpless lady having 2 minor children and it is not possible for her to attend each and every day of hearing at Family Court, Mahasamund and therefore, it would be just and proper to transfer the said matter to the Family Court, Janjgir-Champa, where her claim for maintenance has already been pending under consideration.

5. Shri Gurudev I. Sharan, learned counsel for the respondent, while opposing the said prayer, has brought to the knowledge of this Court that the petitioner made her appearance before the Family Court, Mahasamund and applied for litigation and travelling charges as per the provisions prescribed under Section 24 of the Hindu Marriage Act, 1955. It is submitted further by him that after considering the said application, the trial Court (Family Court, Mahasamund) has allowed the same in part vide order dated 27.11.2017. The said order was questioned by the respondent before this Court in Writ Petition, where it was registered as W. P. (227) No. 53/2018 and vide order dated 16.01.2018, the said order was modified by this Court and requested the trial Court to expedite the matter as early as possible. Photocopies of those orders, i.e., order dated 27.11.2017 and 16.01.2018 are taken on record.

6. Having considered the facts and circumstances of the case and particularly with regard to the fact that the petitioner made her appearance before the Family Court, Mahasamund and obtained the litigation and travelling charges by moving an application under Section 24 of the Hindu Marriage Act, vide order dated 27.11.2017 and that by considering further that despite passing of the said order, the same was

deliberately not placed before the Court, would therefore, not entitled to get the transfer of the said Civil Suit, i.e., Civil Suit No. 34-A/2017 pending before the Family Court, Mahasamund to Family Court, Janjgir-Champa. Besides, I do not find any legal ground so as to transfer the said proceedings as claimed by the petitioner herein.

7. The petition is accordingly dismissed. No order as to costs.

Sd/-

(Sanjay Agrawal)
Judge