

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No. 58 of 2017**

Smt. Aneesha @ Yisha Rajput, wife of Shri Dinkeshwar Rajput, aged about 24 years, R/o. New Krishna Nagar, Supela, P.S. Bhilai, Bhilai, distt. Durg.

Presently residing at – Nandi Bihar Colony, Kawardha, P.S. And Tahsil- Kawardha, Distt. Kabeerdham (C.G.).

---- Applicant**Versus**

1. Dinkeshwar Rajput @ Sunny, aged about 25 years, son of Shri Himanchal Rajput, R/o. New Krishna Nagar, Supela, P.S. Bhilai, Bhilai Distt. Durg.
2. Ajay Singh S/o Late Ramman Singh, aged about 38 years, R/o. Nandi Bihar Colony, Kawardha, P.S. And Tahsil- Kawardha, Distt. Kabeerdham (C.G.).

---- Respondent**AND****Transfer Petition (C) No. 13 of 2018**

Dinkeshwar Rajput @ Sunny, aged about 26 years, son of Shri Himanchal Rajput, R/o. New Krishna Nagar, Shyam Chowk, Supela, Bhilai Distt. Durg (C.G.).

---- Applicant**Versus**

Smt. Anisha @ Yisha Rajput, wife of Dinkeshwar Rajput @ Sunny, aged about 24 years, Occupation House Maker, R/o. New Krishna Nagar, Supela, Bhilai, at present R/o Nandi Vihar Colony Kawardha Thana and Tehsil Kawardha, District- Kabirdham (C.G.).

---- Respondent

For Applicant in TPC 58/2017	:	Mr. Ali Asgar, Advocate
For Respondent in TPC 58/2017	:	Mr. R.S. Baghedl, Advocate
For Applicant in TPC 13/2018	:	Mr. R.S. Baghedl, Advocate
For Respondent in TPC 13/2018	:	Mr. Ali Asgar, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

19/02/2018

1. With the consent of both the parties, the matters are heard finally.
2. In TPC No. 58/2017, the petitioner-wife is praying for transfer of Case No. 605/2017 filed under Section 9 of the Hindu Marriage Act, 1955 (henceforth 'the Act of 1955') pending before Third Additional Principal Family Judge, Durg to Family Court, Kawardha, Distt. Kabeerdham on the ground that she being a pregnant lady is unable to travel from Kabeerdham to Durg frequently. In TPC No. 13/2018, the petitioner-husband is praying for transfer of Case No 39-A/2017 filed under Section 12 of the Act, 1955 for declaring the marriage as void from the Family Court, Kabeerdham to Third Additional Principal Judge, Family Court, Durg.
3. Learned counsel appearing on behalf of the wife submits that the parties were married on 06/06/2017. After some time, some dispute arose between the parties and the petitioner-wife was compelled to live with her father at Kawardha. She filed an application under Section 125 of Cr.P.C before the Family Court, Kawardha, which was registered as Case No. 749/2014. She has also filed an application under Section 9 of the Act of 1955 for restitution of conjugal right, which has been registered as 39-A/2017 before the Family Court, Kabeerdham. The husband has filed an application under Section 12 of the Act of 1955 before the Family Court, Durg which has been

registered Case No. 605/2017. It is submitted that the petitioner-wife is having pregnancy of about 8 months. Since two cases filed by her are still pending in the Family Court, Kabeerdham and she, being a lady carrying pregnancy of about 8 months, is unable to move from Kabeerdham to Durg, therefore, Case No. 605/2017 may be transferred from Durg to Kabeerdham.

4. On the other hand, learned counsel appearing on behalf of the Husband has opposed the arguments advanced on behalf of the wife and submits that the distance from Kabeerdham to Durg is about 110 Kms, which is easily accessible for the wife. He further submits that no reasonable grounds has been shown by the wife for transfer of the case, therefore, the petition preferred by her may be dismissed. He further submits that since he has filed an application under Section 12 of the Act of 1955 for declaring the marriage null and void, therefore, as a counter blast, she/wife filed an application under Section 9 of the Act of 1955 before the Family Court, Kabeerdham. Since his suit was filed earlier, therefore, it is prayed that the petition filed by the wife under Section 9 of the Act of 1955 may be transferred from Kabeerdham to Durg.
5. I have heard learned counsel appearing for the parties and perused the petition and the documents annexed thereto with due care.
6. Considering the facts and circumstances of the case, particularly, with regard to the fact that wife is a lady and at present she is carrying pregnancy of about 8 months, I am inclined to transfer the civil suit from the Court of Family Court, Durg to Family Court, Kabeerdham.

7. In the result, TPC No. 58/2017 filed by the wife is allowed and TPC No. 13/2018 filed by the husband is dismissed.
8. It is directed that the Case No. 605/2017 (Dinkeshwar Singh Vs Smt. Aneesha and another) pending before the Third Addl. Principal Family Judge, Durg be transferred to Family Court, Kabeerdham 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, Kabeerdham on 06/04/2018. It is further directed that the said case shall be decided as early as possible, preferably within a period of six months.
9. No order as to cost.

Sd/-
(Arvind Singh Chandel)
Judge