

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No. 47 of 2017**

Madhuri Dewangan W/o Kailash Kumar Dewangan, aged about 34 years, Working as Shikshakarmi Grade-I, Belkota High School Batouli, District Surguja (C.G.).

---- Applicant

Versus

Kailash Kumar Dewangan S/o Shri Nemichand Dewangan, aged about 31 years, R/o Rajapara, Sarangarh, presently residing at New Shanti Vihar Colony, Daganiya, Raipur (C.G.), working as Painting Tutor, Disha School, Raipur, District Raipur (C.G.).

---- Respondent

For Applicant	:	Mr. C.J.K. Rao, Advocate
For Respondent	:	Mr. Manoj K. Sinha, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**22/02/2018**

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. 16-A/2016 preferred under Section 13 of the Hindu Marriage Act, 1955 (henceforth 'the Act of 1955') for a divorce by the husband pending before the learned Additional District Judge, Sarangarh, District- Raigarh to the Family Court, Ambikapur, District- Surguja on the grounds that she, being a lady, have no other male member to accompany her to attend the court on each and every date at Sarangarh, the Court of Sarangarh is too far from her working place as well as of respondent and there is one case filed by her under Section 498-A pending before the JMFC, Ambikapur, therefore, the said case may be transferred to the Family Court, Ambikapur, District- Surguja.

2. Learned counsel appearing on behalf of the applicant submits that the marriage between the parties was solemnized on 07/07/2014. Thereafter, she was residing with the respondent in her matrimonial house. After some time, respondent and his family members started harassing her and she was subjected to cruelty on the demand of dowry. A report was filed by the applicant in this regard. After investigation, a charge-sheet under Section 498-A/34 of IPC was filed before the JMFC, Ambikapur and the case has been registered as Case No. 1348/2016. The applicant is presently working as Siksha Karmi Grade-I and posted at High School Belkota, Batouli, District-Surguja which is about 150 Kms far away from the Court of Sarangarh. The respondent is working at Raipur and has filed an application under Section 13 of the Act of 1955 for grant of divorce before the Additional Sessions Judge, Sarangarh which has been registered as Case No. 16-A/2016. It is further submitted that as one litigation is already pending before JMFC, Ambikapur and looking to the distance from working place of applicant i.e. Batouli, District Surguja to Sarangarh, the applicant, being a lady, is unable to attend each and every date of hearing at Sarangarh as there is no other male member to accompany her to attend the Court at Sarangarh and except the respondent and his family members, there is no other close relative of her residing at Sarangarh, therefore, the civil suit may be transferred to the Family Court, Amibkapur.
3. On the other hand, counsel appearing on behalf of the respondent has opposed the contention made on behalf of the applicant and submits

that the applicant was lastly residing with the respondent in Sarangarh and the marriage was also performed at Sarangarh. Presently, the applicant is working in High School Belkota, Batouli, District- Surguja, but she is not resident of Block Batouli. It is further submitted that there is danger to the respondent that he may be threatened at Ambikapur, therefore, the petition filed by the applicant 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 facts that the applicant is a lady working in High School, Batouli, the distance from Batouli to Sarangarh is 150 Kms, her husband is working at Raipur and he has to come Sarangarh from Raipur, therefore, if he also goes to Ambikapur, he would not be at any harm as there is already one more litigation pending at Abmikapur, I am inclined to transfer the said case pending before the Additional District judge, Sarangarh, District Raigarh to the Family Court, Ambikapur, District Surguja.
6. Consequently, the transfer petition is allowed. It is directed that the Civil Suit No. 16-A/2016 pending before the Additional District judge, Sarangarh, District Raigarh be transferred to the Family Court, Ambikapur, District Surguja 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, Ambikapur 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

Rahul