

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No. 48 of 2017**

Smt. Shail Mishra W/o Kirti Kumar Mishra, aged about 30 years, C/o Vinod Mishra, Resident of Ward No. 14, Jashpur P.S. And Tahsil- Jashpur, District- Jashpur (C.G.).

---- Applicant

Versus

Kirti Kumar Mishra S/o Santosh Kumar Mishra, aged about 35 years, R/o Bhatthi Road, Kedarpur, Ambikapur, P.S. & Tahsil- Ambikapur, District- Surguja (C.G.)

---- Respondent

For Applicant	:	Mr. Sunil Tripathi, Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**05/01/2018**

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. 72-A/2017 preferred under Section 13 of the Hindu Marriage Act, 1955 and also for transfer of Civil Suit No. 18/2017 preferred under Section 8 of the Hindu Minority and Guardianship Act from the Family Court, Ambikapur to the Family Court, Jashpur on the ground that she, being a lady, is unable to travel from Jashpur to Ambikapur frequently.
2. Learned counsel appearing on behalf of the Applicant submits that the marriage between the parties was solemnized on 06/05/2006 at Jashpur. Out of their wedlock, two children were born and both are living with the Applicant at Jashpur. The Respondent and his family members, just after the marriage, started committing cruelty with the

Applicant for demand of dowry. The respondent, being a heavy drinker, used to beat the applicant saying that she is not fit for his family and has born two daughters. Therefore, the relationship between the parties was not cordial and in the month of September, 2015, the applicant along with her daughters left her matrimonial house and started residing with her parents at Jashpur. It has been further submitted that an application under Section 125 of the Code of Criminal Procedure was moved before the Family Court, Jashpur by the applicant for maintenance, which, after due consideration, was allowed and maintenance of Rs. 9000/- per month was awarded in her favour. But, till date, not a single penny has been paid to her. He further submits that just after the decision in the maintenance case, the respondent also moved an application under Section 8 of the Hindu Minority and Guardianship Act for custody of the minor daughters, which has been registered as Civil Suit No. 18/2017. The respondent has also filed an application under Section 13 of the Hindu Marriage Act for grant of divorce before the Family Court, Ambikapur, which has been registered as Civil Suit No. 72-A/2017. It has been further submitted that the applicant is residing at Jashpur, whereas, the respondent is a local resident of Ambikapur. The applicant is a poor lady and having two minor daughters, and after passing of the maintenance order, not a single penny has been paid to her. Therefore, it would not be just and proper for the applicant to go to Ambikapur frequently and contest both the suits as the distance between the Ambikapur and Jashpur is about 160 Kms. He prays for transfer of both the civil suits from the Family Court, Ambikapur to the

Family Court, Jashpur.

3. No one appears on behalf of the respondent, though notice has been served.
4. I have heard learned counsel appearing for the applicant and perused the transfer petition and the documents annexed thereto with utmost circumspection.
5. Considering the facts and circumstances of the case, particularly, the fact that the applicant is a lady residing with two minor daughters at Jashpur and despite grant of maintenance, she has not been paid a single penny by the respondent and also that the distance between the two places is 160 kms., I am of the opinion that both the civil suits deserves to be transferred to the Family Court, Jashpur from the Family Court, Ambikapur.
6. Consequently, the transfer petition is allowed. It is directed that both the above-named civil suits be transferred to the Family Court, Jashpur from the Family Court, Ambikapur for their hearing and disposal in accordance with law. The said transfers shall be made effective before 07/02/2018. The parties shall now appear before the Family Court, Jashpur on 19/02/2018. It is further directed that the civil suits 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