

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Transfer Petition (C) No. 71 of 2017**

Smt. Jigyasha Gupta (Soni) W/o Shri Prakash Gupta, D/o. Shri V.L. Soni, aged about 33 years, R/o. C/o. Shri Ujjwal Soni, Near Bharat Kirana Store, Ganpati Nagar, Changora- bhatha, Raipur, Tahsil and District- Raipur (C.G.).

---- Applicant**Versus**

Prakash Gupta, aged about 34 years, S/o Shri Shivratan Lal Gupta, R/o. Sadar Itwari Bazar, Dhamtari, Tahsil and District Dhamtari (C.G.).

---- Respondent

For Applicant	:	Mr. Roop Naik, Advocate
For Respondent	:	Mr. Awadh Tripathi, Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****24/01/2018**

1. With the consent of the parties, the matter is heard finally.
2. This petition under Section 24 of the Code of Civil Procedure, 1908 has been filed by the applicant praying for transfer of Civil Suit No. H.M.-01-A/2017 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights pending before the Family Court, Dhamtari to the Family Court, Raipur on the ground that she being a lady is unable to travel from Raipur to Dhamtari as she is medically unfit and unable to perform journey of long distance..

3. Learned counsel appearing on behalf of the applicant submits that the marriage between the parties was solemnized on 29/01/2015. Thereafter, they were living together at Dhamtari. After marriage, behavior of the respondent and his family turned harsh and ultimately on 09/01/2016, the applicant leave her husband's house. On 02/01/2017, the respondent filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights before the Family Court, Dhamtari. On 22/10/2016, the applicant had filed an application under Section 125 of Cr.P.C. before the family Court, Raipur. It is further submitted that the applicant has no source of income and she is residing in her brother's house. The distance from Raipur to Dhamtari is about 80 Kms and returning from Dhamtari on the same day is very difficult for the applicant as she is suffering from Disc desiccations. Her treatment is continuously going on and she has been advised for bad rest. Therefore, she is not able to perform long journey distance. On this ground, she has prayed to transfer the aforementioned case to the Family Court, Raipur.
4. On the other hand, learned counsel for the respondent has opposed the petition filed by the applicant and submitted that the applicant is getting Rs. 5000/- as an interim maintenance from the respondent under Section 125 of Cr.P.C.. Even in the case pending under Section 9 of the Hindu Marriage Act, she moved an application under Section 24 of the Hindu Marriage Act and vide order dated 12/09/2017, the Court has provided a sum of Rs. 1100/- per hearing as traveling allowance along with a sum of Rs. 1500/- per month as a maintenance

pendent light. It has been further submitted that the applicant has no medical problem and she is a fit women to attend the Court of Dhamtari. He further submitted that since her application under Section 24 of the Hindu Marriage Act has already been allowed, therefore, in these circumstances, her petition is not maintainable.

5. I have heard counsel for the parties and perused the documents annexed with the petition.
6. Looking to the facts that the applicant has already been granted Rs. 5000/- per month as an interim relief and further her application under Section 24 of the Hindu Marriage Act has also been allowed and vide order dated 12/09/2017, she is getting Rs. 1100/- per hearing as a traveling allowance along with a sum of Rs. 1500/- per month as a maintenance pendent light and also that the distance from Raipur to Dhamtari is only 80 Kms and also the road condition is good. In these circumstances, I am not inclined to transfer the aforementioned case pending before the Family Court, Dhamtari to Family Court, Raipur.
7. Accordingly, the transfer petition is liable to be and is hereby dismissed.
8. No order as to cost.

Sd/-

(Arvind Singh Chandel)
Judge