

HIGH COURT OF CHHATTISGARH, BILASPUR

T.P.(C) No. 65 of 2018

Dr. Manoj Kumar Tiwari, S/o. Late Shri Girjanand Tiwari, Aged About 42 Years, Occupation Program Coordinator (Mathematics) At Pt. Sunder Lal Sharma Open University, Bilaspur, Permanent R/o. Village Kairmuda (Tundri), Tehsil Dabhara, District- Janjgir-Champa, Chhattisgarh, Present R/o. C/o Kiran Bala Goswami, New Sarkanda, Jabdapara, Road No. 1, Ward No. 44, District- Bilaspur, Chhattisgarh.

---- Petitioner

Versus

Smt. Suman Tiwari, W/o. Manoj Kumar Tiwari, Aged About 37 Years, Occupation Assistant Grade 3 (Add. District & Session Court) At Present R/o. Sakti, Tehsil Sakti, District- Janjgir-Champa, Permanent R/o Baikunthpur, District- Raigarh, Chhattisgarh.

---- Respondent

For Petitioner : Mr. J.K.Gupta, Advocate

For Respondent : Mr. Amit Kumar Sahu, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

11.12.2018

Heard

1. The present petition is filed by the husband for transfer of a Civil Suit No. F 87A/2018 filed by the wife seeking divorce under Section 13(1)(a) of the Hindu Marriage Act, which is pending before the Family Court, Raigarh to the Family Court, Janjgir.
2. Learned counsel for the petitioner submits that initially an application was filed by the husband under Section 9 of the Hindu Marriage Act for restitution of conjugal rights against the wife before the Family Court Raigarh and the same was dismissed. The wife has further filed a divorce case before the same Family Court and therefore there is every likelihood of bias against the petitioner as the Judge has already framed his mind; therefore, the case may be transferred to the Family Court Janjgir.

3. Per contra, learned counsel for the respondent vehemently opposes the same.
4. Perused the documents connected to this petition, which contains the order dated 03.04.2018, which is a dismissal order of the application under Section 9 of the Hindu Marriage Act filed by the husband for restitution of conjugal rights. Annexure P-3 reflects that the divorce petition was filed by the wife on the ground of cruelty. Simply because of the fact that earlier restitution application preferred on behalf of the husband has been dismissed by the Court, the bias cannot be inferred so easily. To demonstrate a bias, categorical and full proof case and facts has to be placed before the Court as otherwise it would reflect on the judicial function of the Court and only by hearing the argument such bias on the Judge cannot be imputed.
5. Considering the nature of the documents filed along-with the petition, I do not find any bias can be inferred on the Judge so as to transfer the divorce petition preferred by the wife to the other Family Court. Accordingly the petition is dismissed.

Sd/-
(Goutam Bhaduri)
Judge