

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 74 of 2017**

- M. Santosh S/o Late M.R.Rao, Aged About 38 Years Computer Teacher, Aditya Birla Public School, Grasim Vihar, Rawan, Balodabazar, R/o House No.4125, Grasim Vihar Colony, Balodabazar, Chhattisgarh,

---- Petitioner**Versus**

- Smt. M. Usha W/o Shri M.Santosh Kumar, Aged About 32 Years D/o Shri N.V.Rao, Retd. Rly. Employee Panchsheel Nagar East, B M Y- Charoda 490025 District Durg, Chhattisgarh,

---- Respondent

For Petitioner	:	Shri B.P.Rao, Advocate.
For Respondent	:	Shri Rohitashwa Singh, Advocate.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****20.02.2019**

1. This petition has been filed by the petitioner/husband under Section 24 of the Code of Civil Procedure, 1908 (hereinafter referred to as the CPC) for transfer of Civil Suit No. 754/2016 (filed by the respondent/wife) pending before the Principal Judge, Family Court, Durg to the Third Additional District Judge, Baloda Bazar.

2. Shri B.P.Rao, learned counsel for the petitioner submits that the marriage between the parties was solemnized on 25.09.2009 and out of their wedlock, a daughter was born, who is aged about 6 to 7 years old. It is submitted further that a petition for divorce under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as the Act, 1955) was made by the petitioner before the concerned District Court, Baloda Bazar, which is registered as Civil Suit No. 44-A/2015. According to the petitioner, respondent/wife is suffering from

Schizophrenia prior to marriage and while suppressing the said fact, alleged marriage was performed. It is submitted further that the petitioner is living along with his widowed mother and said child and is, therefore, facing a great hardship to attend the Court at Family Court, Durg, while leaving his widowed mother and minor child and, submits further that the evidence has already been closed on 16.08.2018 in a petition instituted by the petitioner. Therefore, under such circumstances, the petition instituted by the wife under Section 9 of the Act, 1955 registered as Civil Suit No. 754/2016, pending before the concerned Family Court, Durg, be transferred to District Court, Baloda Bazar.

3. No reply has been filed. However, Shri Rohitashwa Singh, learned counsel for the respondent/wife has contested and submitted that being a wife, it is difficult for her to travel from village Charoda of District Durg to Baloda Bazar. Therefore, this transfer petition deserves to be dismissed.

4. I have heard learned counsel for the parties and perused the entire record carefully.

5. Having considered the facts and circumstances of the case and considering further that the petitioner is living along with his widowed mother and a minor child, I am of the opinion that the Civil Suit No. 754/2016 filed by the respondent/wife under Section 9 of the Act, 1955, deserves to be transferred from concerned Family Court, Durg to the Court of Third Additional District Judge, Baloda Bazar.

6. Accordingly, the petition filed by the petitioner/husband is allowed. It is ordered that Civil Suit No. 754/2016 filed by the respondent/wife under Section 9 of the Act, 1955 pending before the Principal Judge, Family Court, Durg shall stand transferred to the Court of Third Additional District Judge, Baloda Bazar for its trial in accordance with law.

7. The concerned Family Court, Durg, is hereby directed to transmit the record of Civil Suit No. 754/2016 immediately towards the Court of Third Additional District Judge/concerned Court, Baloda Bazar, who in turn shall decide both the matters as expeditiously as possible. No order as to costs.

Sd/-

(Sanjay Agrawal)
Judge