

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 75 of 2019**

Smt. Maya Sagar, W/o Manoj Sagar, aged about 34 years, Occupation Service, R/o Gandhinagar, Post and P.S. Gandhinagar, Tahsil Ambikapur, District Surguja (CG).

---- Applicant**Versus**

Manoj Sagar, S/o Palu Ram Sagar, aged about 35 years, R/o Sagar Niwas, Sonmuda, Raigarh, District Raigarh (CG).

---- Non-applicant

For Applicant : Mr. Chandra Kumar, Advocate
 For Non-applicant : Mr. Amit Xalxo, Advocate

Hon'ble Shri Sharad Kumar Gupta, Judge**ORDER ON BOARD****17.12.2019**

1. Heard on admission.
2. The petition is admitted for hearing.
3. With the consent of both the parties, the matter is heard finally.
4. The applicant has preferred this TPC under Section 24 of the Code of Civil Procedure (in short 'CPC') for transfer of Civil Suit No.41-A/2017 **(Manoj Sagar -v- Maya Sagar)** pending before the Family Court, Raigarh to the Family Court, Bilaspur.
5. In brief, the applicant's case is that she is legally wedded wife of the non-applicant. She is working as Government Servant and presently posted at Kota, whereas non-applicant is resident of Raigarh. He has filed an application under Section 13 of the Hindu Marriage Act against her before the Family Court, Raigarh, which was registered as Civil Suit No.41-A/2017. She lives along with her minor daughter, who is studying in Class-III. She has to face serious hardship and inconvenience to travel from Kargi Road Kota to Raigarh to attend the Court proceeding. There is no one to look after her minor daughter. She is also bound to travel along with her minor daughter.
6. In brief, the non-applicant's case is that the daughter is studying at Ambikapur. The job of applicant is transferable. If she would transfer to any other place then she would again prefer transfer petition. His old aged father is suffering from Cardiac disease.
7. Counsel for the applicant, in support of case, drew my attention on

Annexure A-3 and Annexure A-4 and counsel for the non-applicant, in support of case, drew my attention on Annexure R-1 collectively.

8. Hon'ble Supreme Court in the matter of **Sumita Singh -v- Kumar Sanjay and another** reported in [(2001) 10 SCC 41] has observed that if husband files suit against wife, then convenience of wife must be looked into.
9. Hon'ble Supreme Court in the matter of **Rajani Kishor Pardeshi -v- Kishor Babulal Pardeshi** reported in [(2005) 12 SCC 237] has observed that the convenience of wife is to be preferred over the convenience of the husband.
10. As per Annexure A-3, the applicant is presently posted at CHC, Kota and Annexure A-4 is related with TC of her daughter from Central School, Ambikapur.
11. In the case in hand, Kargi Road, Kota is 32 kms far away from Bilaspur. The distance between from Bilaspur to Raigarh is 160 kms.
12. There is no material available on record on the strength of which it can be said that some other person is living with the applicant, who can take care of her minor daughter.
13. Being a lady, it would be hardship and inconvenience to the applicant to go to Raigarh from Kargi Road, Kota to attend the Court proceeding. Moreover, the non-applicant is not bound to attend each and every date of the Court. He can appoint the counsel also.
14. Looking to the above mentioned facts and circumstances of the case and aforesaid observations made by Hon'ble Supreme Court in the matter of **Sumita Singh** (supra) and **Rajani Kishor Pardeshi** (supra) this Court is of the considered opinion that the balance of the convenience is in favour of the applicant. Consequently, the instant transfer petition deserves to be and is hereby allowed. It is ordered that the Civil Suit No.41-A/2017 pending before the Family Court, Raigarh be transferred to the Principal Judge, Family Court, Bilaspur for its trial/disposal in accordance with law. The Family Court, Raigarh is directed to transmit the records of the above suit to the Principal Judge, Family Court, Bilaspur for further proceedings.
15. In view of above order, I.A. No.1 stands disposed of.
16. No order as to costs.

SD/-
(Sharad Kumar Gupta)
Judge