

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 3 of 2019**

- Smt. Farha Khan D/o Late Anish Hassan Khan Aged About 42 Years R/o Jatiya Talab, Om Nagar, Jarhabhata, Bilaspur, Present Address - Flat No. 203, 2nd Floor, C.K. Heights Chadda Badi, Nehru Nagar, Bilaspur, Tahsil And District - Bilaspur Chhattisgarh

---- Petitioner

Versus

- Irfan Ur Rahim Khan S/o Anwar Ur Rahim Aged About 54 Years R/o E-1, Nutan Colony, Sarkanda, Bilaspur District - Bilaspur Chhattisgarh

---- Respondent

For Petitioner : Ms. Indira Tripathi, Advocate

For Respondent : Ms. Hamida Siddiqui, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****21/01/2019**

1. Heard.
2. The present petition is against the order dated 11.12.2018, whereby an application which was moved under Section 24 of the CPC, supported by an affidavit, by the petitioner herein, seeking transfer of an application under Section 7 of the Guardian and Wards Act, 1890, the said petition is pending before the Court below since 2017.
3. It is contended that the manner in which the case was being conducted by the Court, it gives an impression to the petitioner that she may not get the justice

and proper opportunity of hearing. As such a prayer was made to transfer the case to another Family Court, however, the same was refused on the ground that the time limit was fixed by this Court in CONT No.649/2018 to decide the case within a period of three months from 30.10.2018. It is contended that if case is transferred the petitioner shall appear before different Court and may make her submission.

4. Perusal of the entire documents filed by the petitioner would show that the series of orders were passed at different points of time, wherein directions were given for the custody of the child to either of the parties i.e. the Father & Mother including periodical in nature. In the meanwhile, since the issue of custody and the allegations aggravated, as such considering the same, this Court by order dated 30.10.2018 in CONT No.649/2018 had directed the trial Court to adjudicate the main case of custody of the child within a period of three months from the date of receipt of this order. Thereafter, as has been submitted that the evidence of the father Irfan Ur Rahim Khan has already been closed and the respondent has adduced certain evidence during such time when the case was being heard from day to day and an application under Section 24 CPC, supported with an affidavit, was filed to transfer the case to the other Family Court on the ground of apprehension that the petitioner may not get a fair adjudication as the Court is biased.
5. Perused the orders of the Court. This Court is not influenced by the submission made by the petitioner. It is under the order of this Court, the trial Court was expediting the trial, therefore, any prejudice or allegation at threshold if

accepted would be unfair. The nature of allegations would lead to ponder upon that justice not only be done but seems to be done. Considering the nature of allegation as has been made, in the interest of the justice to insulate the Court too, this Court thinks that no prejudice would be caused if the case is transferred to the other Family Court. Under the circumstances, without any observation on the conduct of the Court below, considering the nature & issue, which is generated, it is directed that the case pending before the Principal Family Court, Bilaspur shall stand transferred to the other Family Court. It is further made clear that three months time which was granted by this Court vide order dated 30.10.2018 in CONT No.649/2018 shall not be further extended and without any observation the order is passed accordingly.

6. With such observation, the petition is disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu