

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(227) No. 7 of 2020**

Smt. Sushmita Yadav, W/o. Vikram Singh Yadav, aged about 33 years, Caste Ahir (Yadav), R/o. C/o Pradeep Kumar Yadav, Qr. No. 3 A, Street No. 11, Sector - 1, Bhilai, District Durg, Chhattisgarh.

---- Applicant**Versus**

Vikram Singh Yadav, S/o. Late Indal Singh Yadav, aged about 33 years, Caste Ahir (Yadav), R/o. Float No. 107, Block 2, Gulmohar Block A, Talpuri, Tahsil and District Durg, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Shravan Agrawal, Advocate
For Respondent	: Mr. Sanjay Patel, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****18/11/2020**

1. This petition has been brought challenging the order dated 23.11.2019, passed by the Principal Judge, Family Court, Durg transferring the case No. 509/2019 from the Court of Second Additional Judge, Family Court, Durg to the Court of Principal Judge, Family Court, Durg.
2. It is submitted that the impugned order is arbitrary and erroneous and it is passed without application of mind and also the Family Court can not invoke the powers under Section 24 of the Civil Procedure Code, therefore, the order passed is unsustainable.
3. Counsel for the respondent opposes the petition and the submission made in this respect and prays for passing appropriate order.
4. I have heard the learned counsel for the parties and perused the documents placed on record.

5. The application that was filed under Section 24 of the C.P.C. before the Principal Judge, Family Court does not mention of any reason, why the respondent wants transfer of the case from the Court of Second Additional Principal Judge, Family Court, Durg to the Court of Principal Judge, Family Court, Durg. Apart from that the prayer in the application appears only to be making a choice of a Court for hearing of the case.
6. Section 24 of the Code of Civil Procedure although does not speak about the circumstances to be taken care of for transferring the case, but the provisions under Section 24 (1) of C.P.C. provides that on application by any of the parties and after notice to the parties and after hearing them as desired to be heard, the order shall be passed thereafter. This words in this provision make it clear, that reason have to be assigned for making prayer for transfer of a case from one Court to any other Court. The application was very clearly opposed by the petitioner side by submitting written reply. Therefore, the order, which has been passed by the learned Principal Judge, Family Court, Durg appears to be arbitrary as well as erroneous without giving consideration to the legal requirements for transfer of the case, therefore, the impugned order is not sustainable.
7. Accordingly, this petition is allowed. The impugned order dated 23.11.2019, passed by the Principal Judge, Family Court, Durg is hereby quashed. The case concerned shall now be heard by the Court of Second Additional Judge, Family Court, Durg (C.G.).

Sd/-
(Rajendra Chandra Singh Samant)
Judge