

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 13 of 2019**

Smt. Pragya Mehta W/o Shri Kamlesh Mehta Aged About 32 Years R/o
Village Tarrighat P.O. Khamhariya, Tehsil Patan And District Durg
Chhattisgarh, District : Durg, Chhattisgarh.

---- Applicant

Versus

Kamlesh Mehta S/o Shri Kedarnath Mehta Aged About 36 Years R/o
Ward No. 36 Near Padimar Society, Bhadra Para, Tehsil And District
Korba Chhattisgarh Mob. No. 9755907945, District : Korba,
Chhattisgarh ..

---- Non-applicant

For the Applicant	:	Shri Avinash Chand Sahu, Advocate
For the Non-applicant	:	Shri Aditya Khare, Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**07/02/2020**

1. With the consent of both the parties matter heard finally.
2. Applicant has preferred this transfer petition under Section 24 of Code of Civil Procedure for transfer of Civil Suit No. 152A/2018 pending before Family Court Korba ('Kamlesh Mehta vs. Smt. Pragya Mehta') to Family Court, Durg.
3. In brief the applicant's case is that she is legally wedded wife of non-applicant. She is resident of village Tarrighat, District Durg, whereas non-applicant is resident of Korba. In their wedlock one son aged about 6½ years was born. He has filed an application under Section 9 of the Hindu Marriage Act, which is pending before the Family Court, Korba. She has also filed an application for maintenance before the Family Court, Durg, which is also pending. Being a lady it is very difficult for her to go Korba for attending Court proceedings at Family Court, Korba, nobody is in her house to take care the minor child when she goes Korba.
4. In brief the non-applicant's case is that in said case applicant is getting Rs.200/- per hearing as travelling expenses, the case is verge of conclusion.

5. Counsel for the applicant placed reliance on the order of this Court dated 13/02/2017 in the matter of *Smt. Kavita Singh vs. Vasant Kumar Singh* passed in TPC No. 71 of 2016.
6. Counsel for applicant further placed reliance on the order of Hon'ble Supreme Court in the matter of *Vandana Sharma vs. Rakesh Kumar Sharma* (2008) 11 SCC 768, in the matter of *Purnima Sailani vs. Shailendra Sailani* (2009) 1 SCC 656.
7. In the matter of *Anindita Das -v- Srijit Das* (2006) 9 SCC 197 Hon'ble Supreme Court observed in para 1 and 2 which are quoted below :-
 - “1. This transfer petition has been filed by the wife on the ground that the petitioner has a small child of six years. She has further claimed that she has no source of income and it is difficult for her to attend the court at Delhi. She has further claimed that she is not keeping good health.
 2. In support of this petition, a large number of authorities have been cited, namely, *Reena Bahri v. Ajay Bahri* [(2002) 10 SCC 136], *Leena Mukherjee v. Rabi Shankar Mukherjee* [(2002) 10 SCC 480], *Ram Gulam Pandit v. Umesh J. Prasad* [(2002) 10 SCC 551] and *Rajwinder Kaur v. Balwinder Singh* [(2003) 11 SCC 726]. These authorities are all based on the facts of their respective cases. They do not lay down any particular law which operates as a precedent”.
8. In aforesaid orders passed by this Court in the matter of *Smt. Kavita Singh* (supra), passed by Hon'ble Supreme Court in the matter of *Vandana Sharma* (supra) and *Purnima Sailani* (supra) no law has been laid-down which operates as a judicial precedent, thus looking to the aforesaid observations made by Hon'ble Supreme Court in the matter of *Anindita Das* (supra) this Court finds that applicant does not get any help from aforesaid orders.
9. In the case in hand from village Tarrighat to District Korba is about 250 Km. away. Frequent trains are not available between Durg to Korba and vice-versa.
10. Applicant being woman would feel difficulty to travel such a long distance.
11. There is no material available on record on strength of which it can be

said that in the family of applicant some other persons are available to look after the minor child.

12. As per the certified copy of Civil Suit No. 152A/2018 the case is fixed for non-applicant's evidence, thus it cannot be said that proceedings are at the verge of conclusion.
13. Looking to the above mentioned facts and circumstances of the case, this Court finds that sound grounds are exists in favour of the applicant regarding transfer of said case.
14. Consequently, the instant transfer petition is allowed and it is ordered that Civil Suit No. 152A/2018 pending before the Family Court, Korba be transferred to Principal Judge Family Court, Durg for its trial/disposal in accordance with law. The Family Court, Korba is directed to transmit the record of the above case to the Principal Judge Family Court, Durg.
15. In view of the above, I.A. No.1/2019 stands disposed of.
16. No order as to costs.

Sd/-

(Sharad Kumar Gupta)
Judge