

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 85 of 2019**

Smt. Jyoti Thakur W/o Upendranath Thakur Aged About 27 Years R/o Near Sai Manglam Vidyut Nagar Durg , Tahsil And Distt. - Durg Chhattisgarh...(Applicant).

---- Applicant

Versus

Dr. Upendranath Thakur S/o Ravindranath Thakur Aged About 32 Years Ravindra Medical Chhandkhuri Farm, Raipur, Office Address - Pelimeta, P.S. - Gandai, Tahsil Chhuikhadan, District - Rajnandgaon Chhattisgarh....(Non Applicant)

---- Non-applicant

For the Applicant	:	Shri P.R. Patankar, Advocate
For the Non-applicant	:	Shri Rudranath Mukherji, Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**16/01/2020**

1. With the consent of both the parties matter heard finally.
2. Applicant has preferred this transfer petition for transfer of Case No. 23A/2019 pending before Family Court Rajnandgaon, Link Court Khairagarh (Dr. Upendranath Thakur vs. Smt. Jyoti Thakur) to Principal Judge Family Court, Durg.
3. In brief the applicant's case is that she is legally wedded wife of non-applicant. She is resident of Vidyut Nagar Durg, whereas he is resident of village Pelimeta, District Rajnandgaon. He has filed an application under Section 9 of Hindu Marriage Act which is pending before the Family Court, Link Court Khairagarh, which was registered as Case No. 23A/2019. She has also filed an application under Section 125 of CrPC which is pending before the Principal Judge Family Court, Durg. She is residing along with her parents. It is very difficult for her to attend the case at Family Court, Link Court Khairagarh. Distance between Durg to Chhuikhadan is more than 50 Km. She has no source of income.
4. Counsel for the applicant argued that applicant has four years child and it would be better that both the cases be tied at Family Court, Durg.

5. Counsel for the non-applicant submitted that non-applicant is a doctor and it is not possible for him to take C.L. to attend the each and every date at Family Court, Durg. He further submitted that if non-applicant would move for Durg his patient would be suffered.
6. Counsel for the applicant placed reliance on the order of this Court dated 07/11/2019 in the matter of '*Amit Kumar Agrawal vs Smt. Garima Agrawal*' passed in TPC No. 47/2019.
7. Counsel for the applicant further placed reliance on the order of this Court dated 09/12/2019 in the matter of '*Smt. Pushpa Masih vs. Kamlesh Masih*' passed in TPC No. 76/2019.
8. Hon'ble Supreme Court in the matter of *Anindita Das -v- Srijit Das* [(2006) 9 SCC 197] observed in para 1, 2 and 3 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.
 3. Even otherwise, it must be seen that at one stage this Court was showing leniency to ladies. But since then it has been found that a large number of transfer petitions are filed by women taking advantage of the leniency shown by this Court. On an average at least 10 to 15 transfer petitions are on board of each court on each admission day. It is, therefore, clear that leniency of this Court is being misused by the women.
9. From Durg to Family Court Rajnandgaon Link Court, Khairagarh

distance is about 50 Km. both places are well connected by road.

10. Moreover, in the case in hand there is no situation that no other person resides with applicant to look after the said child when she would go to Khairagarh to attend the Court proceedings.
11. Applicant can move an application for maintenance and travelling expenses before the Family Court Rajnandgaon, Link Court, Khairagarh.
12. In the matter of *Amit Kumar Agrawal* (supra) and *Smt. Pushpa Masih* (supra) this Court has not laid-down any legal principle. Those cases were decided on the facts of their respective cases.
13. Looking to the aforesaid judicial precedent laid-down by Hon'ble Supreme Court in the matter of *Anindita Das* (supra) this Court finds that applicant does not get any help from the aforesaid order passed by this Court in the matter of *Amit Kumar Agrawal* (supra) and *Smt. Pushpa Masih* (supra). Moreover, in the case of *Amit Kumar Agrawal* (supra) applicant had filed transfer petition to transfer the case pending before the Family Court Raipur to Family Court Korba, where the wife was residing but wife opposed the application. In the case of *Smt. Pushpa Masih* (supra) it was found that distance is 230 Km.
14. Looking to the above mentioned facts and circumstances of the case this Court finds that no sufficient grounds exists in favour of applicant on strength of which the said case may be transferred from the Family Court Rajnandgaon, Link Court Khairagarh to Principal Judge Family Court, Durg.
15. Consequently, instant transfer petition deserves to be and is hereby dismissed.
16. In view of above order I.A. No.1 also stands disposed of.
17. No order as to costs.

Sd/-

(Sharad Kumar Gupta)
Judge