

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 9 of 2020**

- Prema Kiran Khalkho W/o Nirmal Khakha D/o Pitrus Khalkho Aged About 35 Years Occupation Job, Cast Uraon, Residence Of Quarter No. 221/3a, Balko Nagar Korba, District Korba, Chhattisgarh.

---- Petitioner**Versus**

- Nirmal Khakha S/o Rafail Khakha Aged About 35 Years Occupation Job, Cast Uraon, Residence Of Village Dumartoli, Thana And Tahsil Shankargarh, District Balrampur Ramanujganj, Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. Vikash Pandey, Advocate.
For Respondent	:	Mr. Somitra Kesharwani, Advocate on behalf of Mr. Awadh Tripathi, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****28/01/2021**

1. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of Civil Suit Case No. 03/2020 (Nirmal Khakha Vs. Prema Kiran Khalkho), pending before Second Upper District Judge, Ramanujganj, District Balrampur Ramanujganj (C.G.) to Family Court Korba, District Korba (C.G.).
2. Brief facts of the case are that the parties are Christian religion and governed by Christian Law and also the Indian Divorce Act (herein after referred to as the Act). The marriage between the parties took place in Fatepur Beltoli, District Jashpur (C.G.) on 10.05.2011 according to Christian rituals and out of their wedlock two female children were born namely Aarika Khakha and Aahna Khakha. At present the petitioner and respondent are living separately. It is alleged that the petitioner is living in her parental house and respondent has never made effort to take back the petitioner in her matrimonial house. The respondent has filed an

application of Indian Divorce Act 1869 before the learned Second Upper District Judge Ramanujganj, District Balrampur Ramanujganj (C.G.) for grant of decree of divorce and said case is pending before the Second Upper District Judge Ramanujganj. Now, petitioner has filed the instant transfer petition before this Court stating *inter alia* that presently she is residing at Korba and she is facing great difficulties in attending proceedings before the learned Second Upper District Judge Ramanujganj, District Balrampur Ramanujganj (C.G.) which is near about 327 Km away from the Korba. Therefore, the Civil Suit No. 03/2020 pending before the learned Second Upper District Judge Ramanujganj, District Balrampur Ramanujganj (C.G.) be transferred to the Family Court Korba, District Korba (C.G.) for hearing and disposal in accordance with law.

3. Shri Vikash Pandey, learned counsel for the applicant submits that the applicant/wife is residing at Korba, District Korba (C.G.) and she is facing great difficulties in attending the proceeding at Family Court Ramanujganj as the distance between Korba to the learned Second Upper District Judge Ramanujganj, District Balrampur Ramanujganj, where matrimonial suit has been instituted by respondent/husband is near about 327 Kms. He further submits that it is settled position of law that the convenience of wife is relevant factor over the convenience of the husband. Therefore, application for divorce pending in the file of Second Upper District Judge Ramanujganj be transferred to the file of Family Court Korba, District Korba (C.G.).
4. On the other hand, learned counsel for the respondent/husband opposed the petition.
5. I have heard learned counsel for the parties and considered the rival submission and have perused the memo of petition and other papers.
6. Admittedly, the distance between Korba, District Korba, where the applicant/wife is residing, to the Second Upper District Judge Ramanujganj District Balrampur Ramanujganj is about 327 Kms. Being a lady it would be highly inconvenient

for the applicant to travel alone from Korba to Ramanujganj and vice versa especially at evening after attending the hearing.

7. Hon'ble Supreme Court in the matter of **Rajani Kishore Pardeshi Vs. Kishor Babula Pardeshi** reported in **2005 12 SCC 23**, has observed that the convenience of wife is to be preferred over the convenience of the husband. Further, Hon'ble Supreme Court in the matter of **Sumita Singh Vs. 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.
 8. Thus, having ascertained the legal position, as aforesaid and keeping in view the law laid down in aforesaid cases, and particularly, keeping in view that distance between Korba District Korba to Second Upper District Judge Ramanujganj District Balrampur Ramanujganj is about 327 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit Case No. 03/2020 **(Nirmal Khakha Vs. Prema Kiran Khalkho)** filed for divorce under Indian Divorce Act 1869 before the learned Second Upper District Judge Ramanujganj, District Balrampur Ramanujganj (C.G). is hereby withdrawn from the said Court and same is transferred to the file of Family Court Korba, District Korba, for hearing and disposal in accordance with law. The Judge Ramanujganj, District Balrampur Ramanujganj (C.G.) is directed to transmit the record of the above case to the Judge, Family Court Korba, District Korba (C.G.). Parties to appear before the Family Court, Korba on **01.03.2021**.
 9. Interlocutory application, if any, stands disposed of.
- Certified copy as per rules.

Sd/-
(Rajani Dubey)
Judge