

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 13 of 2020**

- Smt. Hansmani Singh W/o Santosh Singh Aged About 32 Years Resident Of Shri Santosh Kuldeep, House No. 412, Near Ovhar Breej Vikas Nagar Tifra Bilaspur, District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

- Santosh Singh Kunwar S/o Mangal Singh Aged About 35 Years R/o Rapakhera Manendragarh, Tahsil Manendragarh, District Korla Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. Tarun Dansena, Advocate.
For Respondent	:	None, though notice has been served through Dasty Mode.

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 No. 74A/2019 (Santosh Singh Kunwar Vs. Smt. Hansmani Singh), pending before Judge, Family Court Manendragarh, District Korla (C.G.) to Family Court Bilaspur, District Bilaspur (C.G.).
2. Brief facts of the case are that the marriage of Smt. Hansmani Singh applicant herein was solemnized with the non-applicant Santosh Singh Kunwar on 06.05.2009 at Bilaspur (C.G.) according to Hindu custom and out of their wedlock two children namely Rashi and Rishi were born. After sometime of marriage, the respondent-husband used to drink alcohol and started harassing the applicant-wife physically and mentally. Since then she is residing with her parents at Bilaspur. The respondent/husband, on 04.07.2019, filed an application under Section 13 (i) (a) of Hindu Marriage Act, 1955 of dissolution of marriage by decree of divorce before the learned Judge Family Court Manendragarh, District Korla

(C.G.), which is pending before the learned Judge, Family Court, Manendragarh District Korla. Applicant/wife has filed an application under Section 125 of Cr.P.C. for grant of maintenance and under Section 9 of Hindu Marriage Act before Family Court Bilaspur (C.G.) which is pending before Judge, Family Court Bilaspur (C.G.). Now, she has filed the instant petition before this Court stating *inter alia* that presently she is residing at Tifra, Bilaspur having no source of income and facing great difficulties in attending proceedings before the learned Judge Family Court Manendragarh, District Korla (C.G.) which is near about 250 Km away from the Bilaspur. Therefore, the Civil Suit No. 74A/2019 pending before the learned Judge Family Court Manendragarh, District Korla (C.G.) be transferred to the Family Court, Bilaspur, District Bilaspur (C.G.) for hearing and disposal in accordance with law.

3. Shri Tarun Dansena, learned counsel for the applicant submits that the applicant/wife is residing at Tifra Bilaspur, District Bilaspur (C.G.). The applicant is facing great difficulty in attending the Court proceeding as the distance between Bilaspur to the Manendragarh, District Korla, where matrimonial suit has been instituted by respondent/husband is about 250 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 learned Judge, Family Court Manendragarh be transferred to the file of Family Court, Bilaspur, District Bilaspur (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 Bilaspur, District Bilaspur, where the applicant/wife is residing, to the Judge, Family Court Manendragarh District Korla is about 250 Kms. Being a lady it would be highly inconvenient for the applicant to

travel alone from Bilaspur to Manendragarh District Korla 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 Bilaspur District Bilaspur to Principal Judge, Family Court Manendragarh District Korla is about 250 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit Case No. 74A/2019 (**Santosh Singh Kunwar Vs. Smt. Hansmani Singh**) filed for divorce under Section 13 (i) (a) of the Hindu Marriage Act, 1955 by respondent/husband before the learned Principal Judge, Family Court Manendragarh, District Korla (C.G.) is hereby withdrawn from the said Court and same is transferred to the file of Family Court Bilaspur, District Bilaspur, for hearing and disposal in accordance with law. The Judge Manendragarh, District Korla (C.G.) is directed to transmit the record of the above case to the Judge, Family Court Bilaspur, District Bilaspur (C.G.). Parties to appear before the Family Court, Bilaspur on **01.03.2021**.
9. Interlocutory application, if any, stands disposed of.
Certified copy as per rules.

**Sd/-
(Rajani Dubey)
Judge**