

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****TPC No. 27 of 2019**

1. Savita Mandal W/o Gautam Mandal Aged About 34 Years Caste Namoshudra, R/o Village Krishna Nagar, Ward No. 03, Police Chowki Ganeshmod, Police Station And Tahsil Balrampur, District- Balrampur- Ramanujganj, Chhattisgarh.
2. Gayatri Mandal D/o Gautam Mandal Aged About 8 Years Caste Namoshudra, Through Natural Guardian Mother Petitioner No.1, R/o Village Krishna Nagar, Ward No. 03, Police Chowki Ganeshmod, Police Station And Tahsil Balrampur, District- Balrampur-Ramanujganj, Chhattisgarh.

---- Petitioners**Versus**

- Gautam Mandal S/o Narayan Mandal Aged About 42 Years Occupation- Agriculture, Caste Namoshudra, R/o Village Saahpur Kalouni, Ward No. 02, Police Station And Tahsil Dharamjaigarh, District- Raigarh, Chhattisgarh.

---- Respondent

For Petitioners	:	Ms. K. Radhika, Advocate on behalf of Mr. V. K. Pandey, Advocate.
For Respondent	:	Mr. Sunil Sahu, Advocate.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****29/01/2021**

1. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of Civil Suit No. 157-A/2018 (Gautam Mandal Vs. Smt. Savita Mandal), pending before learned Family Court, Raigarh, District-Raigarh (C.G.) to District Court, Ramanujganj, District Balrampur-Ramanujganj (C.G.).
2. Brief facts of the case are that the marriage of Smt. Savita Mandal applicant No. 1 herein was solemnized with the respondent Gautam Mandal prior to 14 years according to Hindu custom and out of their wedlock three children were born. After some time of marriage, the respondent-husband started harassing the applicant-wife physically and mentally and demanded dowry. Since the month of June, 2018 the applicant-wife is residing with his parents at Village Krishna Nagar, Tahsil

Balrampur, District Balrampur-Ramanujganj. The applicant-wife file an application under Section 125 of Cr.P.C. for grant of maintenance against the respondent-husband before the Judicial Magistrate, First Class, Balrampur. The said case is fixed for reply of the respondent. After filing of the instant application when the notice issued by the learned Family Court, Raigarh has been received by the applicant No. 1, then she came to know about the fact that the respondent has filed an application under Section 9 of the Hindu Marriage Act, 1955 before learned Judge Family Court, Raigarh, District Raigarh which is pending before the learned Family Court, Raigarh, District Raigarh. Now, petitioner has filed the instant transfer petition before this Court stating *inter alia* that presently she is residing at village Krishna Nagar Tahsil Balrampur and she is facing great difficulties in attending proceedings before the learned Family Court, Raigarh District Raigarh (C.G.) which is near about 300 Km away from the Balrampur. Therefore, the Civil Suit No. 157-A/2018 pending before the learned Family Court, Raigarh District Raigarh (C.G.) be transferred to the District Court Ramanujganj, District Balrampur-Ramanujganj (C.G.) for hearing and disposal in accordance with law.

3. Ms. K. Radhika, Advocate on behalf of Mr. V. K. Pandey, learned counsel for the applicant submits that the applicant/wife is residing at Village Krishna Nagar Tahsil Balrampur, District-Balrampur-Ramanujganj (C.G.) and she is facing great difficulties in attending the proceeding at Family Court, Raigarh as the distance between Balrampur to the learned Family Court, Raigarh, where matrimonial suit has been instituted by respondent/husband is near about 300 Kms. She 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 under Section 9 of Hindu Marriage Act pending in the file of Family Court, Raigarh, District-Raigarh be transferred to the file of District Court, Ramanujganj, District Balrampur-Ramanujganj (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 Balrampur, District Balrampur-Ramanujganj, where the applicant/wife is residing, to the Family Court, Raigarh, District-Raigarh is about 300 Kms. Being a lady it would be highly inconvenient for the applicant to travel alone from Balrampur to Raigarh 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 Balrampur District Balrampur-Ramanujganj to Family Court, Raigarh, District-Raigarh is about 300 Kms., the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit No. 157-A/2018 (**Gautam Mandal Vs. Smt. Savita Mandal**) filed under Section 9 of Hindu Marriage Act before the learned Family Court, Raigarh, District Raigarh (C.G.) is hereby withdrawn from the said Court and same is transferred to the file of District Court Ramanujganj, District Balrampur-Ramanujganj, for hearing and disposal in accordance with law. The Judge Raigarh, District Raigarh (C.G.) is directed to transmit the record of the above case to the Judge, District Court Ramanujganj, District Balrampur-Ramanujganj (C.G.). Parties to appear before the Family Court, Ramanujganj, District Balrampur-Ramanujganj on **02.03.2021**.
9. Interlocutory application, if any, stands disposed of.
Certified copy as per rules.

Sd/-

(Rajani Dubey)
Judge

