

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPC No. 39 of 2021**

- Smt. Shweta Sahu, W/o Shekhar Sahu, Aged About 30 Years, D/o Kanshiram Sahu, R/o Karma Chowk, Gokulpur, Dhamtari, Tahsil & District Dhamtari Chhattisgarh.

---- Petitioner**Versus**

- Shekhar Sahu, S/o Chowaram Sahu, Aged About 30 Years, R/o Village Dhanora, Post Hanoda, Tahsil & District Durg Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Punit Ruparel, Advocate.
For Respondent	:	Shri Shikhar Sharma, Advocate.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****26/11/2021**

1. This is a petition under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking transfer of Civil Suit No. 906/2019 (**Shekhar Sahu Vs. Smt. Shweta Sahu**), pending before learned Family Court, Durg (C.G.) to Family Court, Dhamtari (C.G.).
2. Brief facts of the case are that the marriage of petitioner and respondent was solemnized on 05.06.2015 at Dhamtari, District-Dhamtari (C.G.) according to Hindu custom out of their wedlock, a child was born on 04.08.2017. After marriage, the petitioner was residing with the respondent in her matrimonial house. After some time, some dispute took place between respondent and the petitioner and thereafter she left her matrimonial house and is now residing with her parents at Dhamtari. The petitioner has filed an application registered under Section 125 of the Cr.P.C. against the

respondent which is pending before the Family Court, Dhamtari (C.G.). That, the respondent has filed an application under Section 25 of the Guardians and Wards Act, 1890 and the same is pending before the Family Court, Dhamtari (C.G.). Now, the petitioner has filed the instant transfer petition before this Court stating *inter alia* that presently she is residing at Dhamtari (C.G.) and facing great difficulties to attend the proceedings before the learned Family Court, Durg (C.G.) which is near about 70 Km away from Dhamtari (C.G.). Therefore, the Civil Suit No. 906/2019 **(Shekhar Sahu Vs. Smt. Shweta Sahu)** pending before the learned Family Court, Durg (C.G.) be transferred to Family Court, Dhamtari (C.G.) for hearing and disposal in accordance with law.

3. Shri Punit Ruparel, learned counsel for the petitioner submits that the applicant/wife is residing at Dhamtari (C.G.) and facing great difficulties to attend the proceedings at learned Family Court, Durg (C.G.) as the distance between learned Family Court, Durg (C.G.), where the matrimonial suit has been instituted by respondent/husband and the Family Court, Durg (C.G.) is about 70 KM. He further submits that it is a settled position of law that the convenience of wife is relevant factor over the convenience of the husband, therefore, Civil Suit No. 906/2019, pending in the Court of learned Family Court, Durg (C.G.) be transferred to the Court of Family Court, Dhamtari (C.G.).
4. On the other hand, learned counsel for the respondent/husband has no objection to this proposition.
5. I have heard learned counsel for the parties and considered the submissions and perused the memo of petition and other documents.
6. Admittedly, the distance between Dhamtari (C.G.), where

the petitioner/wife is residing, and the Family Court, Durg is about 70 KM. Being a lady it would be highly inconvenient for the petitioner to travel alone from Dhamatari (C.G.) to Family Court, Durg (C.G.) and vice versa especially in the 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 the husband files a 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 the aforesaid cases, and particularly, keeping in view that the distance between Dhamtari to Family Court, Durg is about 70 KM, the instant transfer petition deserves to be and is hereby allowed. It is directed that Civil Suit No. 906/2019 (**Shekhar Sahu Vs. Smt. Shweta Sahu**) filed for dissolution of marriage before the Family Court, Durg (C.G) is hereby withdrawn from the said Court and same is transferred to the Court of Family Court, Dhamtari, for hearing and disposal in accordance with law. The Judge, Family Court, Durg (C.G.) is directed to transfer the record of the above case to the Family Court, Dhamtari (C.G.). Parties to appear before the Family Court, Dhamtari (C.G.) on **03.01.2022**.
9. Interlocutory application, if any, stands disposed of.

Certified copy as per rules.

Sd/-
(Rajani Dubey)
Judge