

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TPC No. 15 of 2023

Smt. Sarita Sahu W/o Arjun Sahu Aged About 33 Years
R/o Rajkishore Nagar Lingiyadih Bilaspur, Present Address Ram Nagar,
Kawardha, P.S. And Tahsil Kawardha District Kabirdham Chhattisgarh

---- **Petitioner**

Versus

Arjun Sahu S/o Jhangle Sahu Aged About 37 Years
Profession Service Apollo Hospital Bilaspur And Agriculture Work R/o
Rajkishore Nagar Lingiyadih Bilaspur And Village Bodtara, P.S. Pandatarai
District Kabirdham Chattisgarh. Present Resident Apollo Hospital Bilaspur
C.G.

---- **Respondent**

For Petitioner : Mr. Y.C Sharma and Mr. Badruddin
Khan, Advocates.

For Respondent : Mr. Alok Bakshi, Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

31-10-2023

1. In pursuance of the direction given by this court earlier, petitioner and respondent are present before this court.
2. The petitioner has filed the present Transfer Petition under Section 24 of the CPC for transferring Civil Suit No.303-A of 2022 pending before Family Court, Bilaspur, District Bilaspur to Family Court Kawardha, District Kabirdham.
3. Learned counsel for the petitioner would submit that the petitioner is residing at Kawardha and she sustained burn injury to the extent of 45% in the year 2011 due to which it is very difficult for her to travel to attend on each and every hearing in Family Court, Bilaspur. He would further submit that due to burn injury her body cannot bear the rays of sun and become allergic due to pollution, thus prayed for transferring the case.

4. On the other hand, learned counsel for the respondent would submit that the petitioner and respondent are residing separately for more than ten years and no attempts were made by the petitioner for reunion and when the respondent has moved an application under Section 9 of the Hindu Marriage Act before the Family Court at Bilaspur, all of a sudden the petitioner has filed the petition for transferring the case from Bilaspur to Kawardha which is mala fide intention on the part of the petitioner. He would further submit that there is no difficulty for her to travel from Kawardha to Bilaspur and even she can avail facility of video conferencing, therefore, the transfer petition filed by the petitioner may be dismissed.
5. I have heard learned counsel for the parties and perused the documents placed on record with utmost satisfaction.
6. It is not in dispute that the distance between Kawardha to Bilaspur is approximately 110 kms and this fact has also not been disputed by the respondent that the petitioner has suffered burn injury which took place in the year 2011. It is undisputed fact that the petitioner has suffered burn injury to the extent of 45% due to which it is very difficult for her to travel in sunlight which may cause irritation or allergy to her. Also considering the fact that pendency of the cases at Family Court, Bilaspur is 2317 cases whereas the pendency of cases at Family Court, Kawardha is 492. The data available with this Court would also reflect that divorce cases pending in Family Court Bilaspur is 509 and cases for restitution of conjugal rights is 269 whereas divorce cases are pending in Family Court Kawardha is 36 and restitution of conjugal rights cases is 19, thus, there is chance of early disposal of the case at Family Court Kawardha.
7. Learned counsel for the respondent would further submit that there is some apprehension in the mind of the respondent that some untoward incident may take place at Kawardha, therefore, he would submit that the respondent may be allowed to avail the facility of video conferencing.

8. Considering the aforesaid submission made by the respondent, it is directed that since the video conferencing facilities are made available for appearance of the litigants, as such it is not required for the litigants to make physical appearance on each and every date, the respondent may take recourse of video conferencing facilities. It is directed the respondent shall move an application before Family Court, Kawardha for granting permission to appear through video conferencing. In the eventuality of filing of application regarding his presence through video conferencing, the Family Court, Kawardha will pass an appropriate order in this regard.
9. Learned counsel for the respondent would further submit that the petitioner may adopt delay tactics, if the transfer petition is allowed as she is residing at Kawardha to prolong the litigation. This apprehension can very well be taken care by the Family Court, Kawardha keeping in view the objection of establishment of Family Courts under the Family Courts Act, 1984 and may issue direction to both the parties to cooperate with the Family Court for early disposal of the case.
10. Considering the above stated facts, I am inclined to allow the petition and directing the transfer of the Civil Suit No. 303 A / 2022 pending before the Family Court, Bilaspur is transferred to Family Court Kawardha, Kabirdham. The Registry of this Court is directed to communicate the order passed by this Court to the Family Court, Bilaspur to transfer the Civil Suit No. 303A/2022 to the Family Court, Kawardha, Kabirdham immediately. Parties are directed to appear before the Family Court, Kawardha on 04-12-2023.
11. Considering the submission made by counsel for the parties, it is directed that learned Family Court, Kawardha shall make an endeavour to complete the trial within outer limit of ten months from the date of appearance of both the parties before it.
12. It is made clear that observation made regarding burn injury of the petitioner is to ascertain whether there is justifiable ground

for transfer or not. The observation made by this Court will not have any effect over the merit of the case which shall be decided by the learned Family Court Kawardha on its own merit after appreciating the evidence, material on record placed before it.

13. Accordingly, with the aforesaid observations and direction, the instant transfer petition is allowed.

Sd/-
(Narendra Kumar Vyas)
Judge

Raju