

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Transfer Petition No. 87/2020

Anju Boyal

-----Petitioner

Versus

Ravindra Kumar

-----Respondent

For Petitioner(s) : Mr. Pushkar Taiminee for Mr. Sanjay Nahar
For Respondent(s) : Mr. Nishit Shah

HON'BLE MR. JUSTICE RAMESHWAR VYAS

Order

11, March, 2022

The instant petition under Section 24 of the Code of Civil Procedure has been filed by the petitioner - wife seeking transfer of petition filed against respondent - husband under Section 9 of Hindu Marriage Act, presently pending in the court of Additional District Judge - Family Court, Chirawa, Jhunjhunu to the Family Court, Bhilwara.

Averments made in the petition are as under:-

Petitioner -wife got married with the respondent - husband in the year 2007 as per Hindu rites and rituals. Out of their wedlock, two children being a boy and a girl were born. Respondent gave beating to the petitioner and involved in adultery also. For one such incident, petitioner registered a complaint at Mahila Police Station, Bhilwara on 21.8.2020. Respondent filed an application under Section 9 of the Hindu Marriage Act before the Additional District Judge, Chirawa for restitution of conjugal rights

for which Court issued notice to the petitioner. Petitioner has also filed application under Section 13(1) of Hindu Marriage Act for declaring her marriage null and void and application for maintenance under Section 125 of Cr.P.C. Petitioner also filed an application under Sections 9 and 37 of Protection of Women from Domestic Violence Act, 2005. There is constant threat perception in the mind of the petitioner that the respondent may cause harm either to the petitioner or her children and parents. Therefore, it is very difficult for the petitioner to appear and contest the case pending before the Court at Chirawa, Jhunjhunu. Petitioner resides at Bhilwara and works at Chittorgarh. The children of the petitioner are minor and require constant attention of the petitioner as there is no one else in the family to look after them. Petitioner cannot leave her children alone even for a single day and attend the case at Chirawa, Jhunjhunu. It would be appropriate that application for restitution of conjugal rights filed by the respondent pending before the learned Additional District Judge – Family Court, Chirawa be heard by the learned Family Court, Bhilwara before whom application under Section 13(1) of Hindu Marriage Act for declaring marriage null and void is also pending. Petition has been supported by the affidavit.

In reply to the transfer petition, respondent – husband has denied allegations made against him. As per him, petitioner lodged the FIR on frivolous grounds only to harass him. Father of the respondent has also lodged an FIR before the Judicial Magistrate, Chirawa. Respondent is jobless. He loves his children and can never threaten or harm them. Petitioner has not come with true and correct facts. Petitioner travels daily from Bhilwara to Sinhana, Chittorgarh to discharge her duties as a Teacher

without any complaint. Her entire case is based only on travelling difficulties and no other substantial reason has been stated by the petitioner for filing transfer petition.

Learned counsel for the petitioner relied upon the following judgments:-

(1) **Sangeeta Alias Shreya vs. Prasant Vijay Wargiya : 2004 13 SCC 407.**

(2) **Vibha Jain vs. Naresh Kumar Somiya : 2018 3 DNJ 1251**

On the other hand, learned counsel for the respondent submits that transfer petition filed by the petitioner cannot be allowed only on the ground that she is a lady and inconvenience will cause to her for travelling from Bhilwara to Chirawa, District Jhunjhunu. Learned counsel for the respondent also submits that the petitioner would be paid expenses for her travelling and stay at Chirawa. Learned counsel for the respondent relied on the following judgments:

(1) **Gayatri Mohapatra vs. Ashit Kumar Panda : (2003) 11 SCC 731**

(2) **M. Sivagami vs. R. Raja : (2005) 12 SCC 301**

(3) **Kanagalakshmi vs. A. Venkatesan : (2004) 13 SCC 405**

Having regard to the submissions made by the learned counsel for the parties and after perusal of the record it reveals that the petitioner is working woman and mother of two minor children. Her present place of posting is at Sinhana, Chittorgarh. Respondent – husband has filed the application under Section 9 of Hindu Marriage Act for restitution of conjugal rights against the petitioner – wife in the Court of Additional District Judge – Family Court, Chirawa, Jhunjhunu, which is far away from Bhilwara. Record also reveals that application seeking declaring the

marriage between the parties null and void is also pending in the Family Court, Bhilwara.

Looking to the facts and circumstances of the present case, this Court is of the opinion that this transfer petition deserves to be allowed. Petitioner is a lady, who will face difficulties to travel for long distance with her minor children. As per the version of the learned counsel for the petitioner, there is no one in the family who can look after her children in the absence of mother. Great inconvenience will be caused to minor children of the petitioner, if the petitioner leaves her children at Bhilwara. Petitioner being a working woman has multiple duties to perform. Other litigation between the parties are pending at Bhilwara. In the above circumstances, more inconvenience will be caused if case is not transferred from Chirawa, Jhunjhunu to Bhilwara in comparison to the inconvenience caused to the respondent.

Resultantly, the instant transfer petition is allowed. Civil Original Case No. 73/2020 pending before pending before Additional District Judge - Family Court, Chirawa, Jhunjhunu is ordered to be transferred to the Family Court, Bhilwara.

Let the parties shall appear before the Family Court, Bhilwara on 7.4.2022 and thereafter, the Family Court, Bhilwara would regulate the hearing.

A copy of this order be sent to the Additional District Judge - Family Court, Chirawa, Jhunjhunu as well as Family Court, Bhilwara for information and necessary compliance.

(RAMESHWAR VYAS),J