



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

S.B. Civil Transfer Appl. No. 40 / 2017

Smt. Yashoda Kanwar W/o Sh. Shivpal Singh, D/o Sh. Mahaveer Singh, Aged About 34 Years, By Caste Rajput, Resident of Village Chanarun, Tehsil Degana, District Nagaur (Raj.)

-----Petitioner

Versus

Shivpal Singh S/o Sh. Rajendra Singh Shekhawat, By Caste Rajput, Resident of Badagaon, Tehsil and District Jhunjhunu, Presently Residing At DHL Express Ltd., Plot No.137, Cargo Terminal No.3, Bangalore International Air Port, Bangalore.

-----Respondent

For Petitioner(s) : Mr Sabir Khan on behalf of Mr Pradeep Shah

For Respondent(s) : Mr Kuldeep Purohit

HON'BLE DR. JUSTICE VIRENDRA KUMAR MATHUR

Judgment

08/09/2017

This Transfer Application under sec.24 CPC has been filed for transfer of Misc. Divorce Petition No.739/2016 (Shivpal Singh v. Smt Yashoda Kanwar), pending against the petitioner before the Family Court No.1, Jodhpur, to Merta.

Briefly stated, marriage of the parties was solemnized on 08.12.2010 at village Chandarun, Tehsil Degana, District Nagaur. The respondent being in employment of DHL Company, was initially posted at Delhi. He left the petitioner at Jodhpur and started living at Delhi. The respondent was thereafter posted from Delhi to Mumbai and from Mumbai to Bangalore but he never took the petitioner with him to any of the places mentioned above. The respondent-husband had never taken care of the petitioner and



left her to live all alone and provide service to disabled sister and mentally retarded nephew of the respondent.

On 28.12.2015, the petitioner was ousted by brother of the respondent from the matrimonial home. The petitioner filed an application under sec.9 of the Hindu Marriage Act for restitution of conjugal rights before the Family Court, Merta. In counter-blast, the respondent thereafter filed a petition for divorce under sec.13 of the Hindu Marriage Act before Family Court No.1, Jodhpur. The petitioner being a down-trodden lady with no helping hand except age-old parents, is unable to attend the proceedings of divorce petition instituted against her by the respondent at Jodhpur. On these facts, transfer of the case filed by respondent was sought from Jodhpur to Udaipur.

Notices were issued to the respondent. After service of the notice, power was filed on behalf of sole respondent.

Heard learned counsel for the parties.

The petitioner, after marriage, lived in her matrimonial home and performed her duties. The respondent being in employment of DHL company, was initially posted at Delhi, thereafter he was posted to Mumbai and from Mumbai to Bangalore but he never took the petitioner with him and left her all alone to provide service to his disabled sister and mentally retarded nephew. She was forced to leave the matrimonial home by brother of the respondent. A petition for restitution of conjugal rights was filed by the petitioner before Family Judge, Merta. Presently, the petitioner is living with her parents at village Chandarun, Tehsil Degana, District Nagaur.



The petitioner being a lady, having no helping hand and no independent source of income, has to face great hardship in coming to Jodhpur for contesting divorce petition filed by the respondent. She has to travel all alone from Chandarum to Jodhpur. It is important to note that the respondent also is presently not residing at Jodhpur. He is serving at DHL Express Limited and presently posted at Bangalore International Airport. In these circumstances, the respondent has no hardship in coming to either Jodhpur or coming to Merta. Both stations, Merta as well as Jodhpur are equally distant from Bangalore.

In view of this and in light of judgment of Hon'ble Supreme Court in **Vaishali Shridhar Jagtap v. Shridhar Vishwanath Jagtap** reported in **2016 (4) WLN 237 (SC)**, it is a fit case to be transferred.

Accordingly, this Transfer Application is allowed and the Misc. Divorce Petition No.739/2016 (Shivpal Singh v. Smt Yashoda Kanwar), filed by the respondent under sec.13 of the Hindu Marriage Act, pending before the Family Court No.1, Jodhpur is ordered to be transferred to the Family Court, Merta.

(DR. VIRENDRA KUMAR MATHUR)J.

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