

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION(CIVIL) NO. 1485 of 2020

ASHA DEVI

Petitioner(s)

VERSUS

SAMIR KUMAR

Respondent(s)

O R D E R

This petition is filed under Section 25 of the Code of Civil Procedure, 1908 read with Order XLI of the Supreme Court Rules, 2013 by the petitioner seeking transfer of Case No. 51/ 2020 titled as "*Samir Kumar versus Asha Devi*" filed under Section 9 of the Hindu Marriage Act, 1955 by the respondent herein seeking restitution of conjugal rights which is pending before the Court of Principal Judge, Family Court, Vaishali at Hajipur, Bihar to the Court of the Principal Judge, Family Court, Ranchi, Jharkhand.

I have heard learned counsel for the respective parties.

Learned counsel for the petitioner submitted that the petitioner is presently residing with her parents at a village, Ranchi, Jharkhand, and on account of financial stringencies and logistical difficulties, she is not in a position to contest the aforesaid petition which has been filed by the respondent before the Family Court, Vaishali at Hajipur, Bihar. He submitted that the petitioner is residing in a village near Ranchi, Jharkhand State which is around 400 Kilometers from Vaishali at Hajipur, Bihar.

He further submitted that in order to enable the petitioner herein to effectively contest the aforesaid petition, this Court

may transfer the aforesaid matter from the Court at Vaishali at Hajipur, Bihar to the Competent Court at Ranchi, Jharkhand by allowing this petition.

Per contra, learned counsel for the respondent contended that there is no merit in this Transfer Petition that the petitioner has stayed away from the company of the respondent without there being any reasonable cause to do so. Hence, this petition may be dismissed.

Having heard learned counsel for the respective parties and on perusal of the material on record, I find that the petitioner has made out a case for the transfer of aforesaid petition from the Court of the Principal Judge, Family Court Vaishali at Hajipur, Bihar to the Court of the Principal Judge, Ranchi, Jharkhand.

In the circumstances, this petition is liable to be allowed and is allowed bearing in mind the interest of justice.

At this stage, learned counsel for the respective parties submitted that since the respondent has filed the petition seeking restitution of conjugal rights, a direction may be issued to the Court of the Principal Judge, Family Court, Ranchi, Jharkhand where the aforesaid petition is now transferred to, in the first instance, explore the possibility of an amicable settlement in the matter either through conciliation or through mediation.

Bearing in mind the aforesaid submission, the Competent Court at Ranchi, Jharkhand is directed to refer the matter to conciliation or to mediation in order to ascertain as to whether there could be an amicable settlement between the parties. If there is no possibility of the settlement in the matter, the said Court

to dispose of the petition in accordance with law and on its own merits.

In the result, Case No. 51/ 2020 titled as "*Samir Kumar versus Asha Devi*" pending in the Court of Principal Judge, Family Court at Vaishali at Hajipur, Bihar is hereby transferred to the Court of the Principal Judge, Family Court, Ranchi, Jharkhand.

With the aforesaid observations and directions, this Transfer Petition is allowed and disposed of.

.....J.
(B.V. NAGARATHNA)

New Delhi
17th August, 2022

ITEM NO.1606

COURT NO.9

SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Transfer Petition(Civil) No. 1485/2020

ASHA DEVI

Petitioner(s)

VERSUS

SAMIR KUMAR

Respondent(s)

(MEDIATION REPORT HAS BEEN RECIEVED.

IA No. 132461/2020 - EX-PARTE STAY

IA No. 132465/2020 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 132466/2020 - EXEMPTION FROM FILING O.T.)

Date : 17-08-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Anurag Pandey, AOR

For Respondent(s) Mr. Ajay Kumar, Adv.
Mr. Yusuf, AOR
Mr. Pankaj Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

This Transfer Petition is allowed and disposed of.

Pending application(s), if any, stands disposed of.

(SNEHA)
SENIOR PERSONAL ASSISTANT

(KAMLESH RAWAT)
COURT MASTER (NSH)

(Signed order is placed on the file.)