

**HIGH COURT OF TRIPURA
AGARTALA**

Tr.P.(C) No.29/2023

Smt. Tumpa Roy (Shil)

..... Petitioner(s).

V E R S U S

Shri Suman Kumar Shil

.....Respondent(s).

For Petitioner(s) : Ms. Ankita Pal, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

14/12/2023

Respondent has not yet entered appearance despite service of notice and indulgence granted on the previous date.

Heard Ms. Ankita Pal, learned counsel for the petitioner.

Petitioner is the wife who seeks transfer of T.S. (Divorce) case No.56 of 2023 instituted by the respondent-husband from the Court of learned Family Judge, Kailashahar, Unakoti Tripura to the Court of learned Family Judge, North Tripura, Dharmanagar.

As per the case of the petitioner, their marriage was solemnized on 27.11.2014. Petitioner was driven out of the matrimonial home for no valid reason on 20.06.2018 and since then she is residing at her parental house at Dharmanagar, North Tripura. Earlier respondent-husband had filed a case under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before learned Family Judge, Kailashahar, Unakoti Tripura bearing T.S.(RCR) No.37 of 2018 which was transferred to the Court of learned Family Judge, North Tripura, Dharmanagar by order of this Court dated 03.05.2019. The suit for restitution of conjugal rights was dismissed by judgment dated 20.02.2023. Thereafter, the respondent-husband has filed T.S.(Divorce) No.56

of 2023 under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955 for dissolution of the marriage with the petitioner before the learned Family Judge, Kailashahar, Unakoti Tripura.

It is submitted that the petitioner is suffering from illness and is under medication. It is not possible for her to attend to the proceedings of the divorce suit before learned Family Court, Kailashahar, Unakoti Tripura. Father of the petitioner is an aged person and a Group-D employee. He cannot accompany the petitioner on every date. Petitioner's mother is also an aged lady and unable to undertake long journey. Petitioner is without any sources of income whereas the respondent is a school teacher and capable to prosecute the petition if transferred to Family Court, Dharmanagar, North Tripura. Therefore, the petitioner has prayed for transfer of the instant divorce suit from the Court of learned Family Judge, Kailashahar, Unakoti Tripura to the Court of learned Family Judge, North Tripura, Dharmanagar.

Having considered the submission of learned counsel for the petitioner and the pleadings on record, this Court is inclined to allow the prayer. Petitioner being a lady without any independent source of income and dependent upon her aged parent may truly find it onerous and expensive to attend to the proceedings of the divorce suit before the learned Family Court, Kailashahar, Unakoti Tripura and as such, it may remain uncontested. This may lead to miscarriage of justice. Respondent being the husband and employed may not have such handicap in prosecuting the suit if transferred to the Court of learned Family Judge, Dharmanagar, North Tripura. As such, prayer is allowed.

Let the records of T.S. (Divorce) No.56 of 2023 be transferred from the Court of learned Family Judge, Kailashahar, Unakoti Tripura to the Court of learned Family Judge, North Tripura, Dharmanagar forthwith.

The transfer petition stands disposed of.

Pending application(s), if any, also shall stand disposed of.

(APARESH KUMAR SINGH), CJ

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