

GAHC010027822023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Tr.P.(C)./15/2023

SMTI. DULUMONI DAS
W/O SRI MONUJIT MAHANATA, D/O LATE TARINI KUMAR DAS, R/O VILL-
BORATOLI, P.O. AND P.S.-PALASHBARI, DIST-KAMRUP (M), ASSAM, PIN-
781128

VERSUS

MONUJIT MAHANTA
S/O LATE RUCHI KANTA MAHANTA, R/O VILL-MILANPUR, P.O.-
PATHALIPAM, P.S.-BOGINODI, DIST-LAKHIMPUR, ASSAM, PIN-787056

Advocate for the Petitioner : MR. K K HANDIQUE

Advocate for the Respondent : MR U S BORGOHAIN

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 22-05-2023

1. Heard Mr. K. K. Handique, learned counsel for the petitioner. Also heard Mr. U S Borgohain, learned counsel for the respondent.
2. The present application is filed under section 24 of the Code

of Civil Procedure, 1908 for transfer of the T.S (D) Case No.112/2022, pending before the court of learned District Judge, North Lakhimpur to the Court of the learned Principal Judge, Family Court, Kamrup (M) at Guwahati.

3. The case of the petitioner is that she got married with the respondent on 27.04.2014 as per Hindu customary rituals and commenced conjugal life and out of their wedlock, a female child was born on 29.04.2015. The marital life of the petitioner could not run well and smoothly and both the petitioner and the respondent started living separately. In the meantime, the respondent filed a Title Suit (D) No.112/2022 under section 13 of the Hindu Marriage Act, 1955 before the learned District Judge, North Lakhimpur praying for dissolution of marriage.

4. The petitioner claims that she has no source of income and depends on her elder sister for livelihood. The petitioner has also preferred an application under section 125 Cr.P.C., before the court of learned Principal Judge, Family Court, Kamrup (M), seeking maintenance from her husband. In this proceeding husband appeared and now it is pending for disposal.

5. The present petitioner submitted that it will be difficult on her part and inconvenient to travel from Palashbari, Guwahati to attend the Court of learned District Judge, at North Lakhimpur. The petitioner further contends that as the husband is not supporting her financially, she will be burdened with unnecessary expense.

6. This court has given anxious consideration to the submissions made by the learned counsel for the parties.

7. By now it is well settled that in a matrimonial transfer petition, for the purpose of transfer, basically it is seen the comparative conveniences and inconveniences of the parties irrespective of whether it is husband or wife. There is no dispute that both the learned District Judge, North Lakhimpur as well as learned Principal Judge, Family Court, Kamrup (M) are having jurisdiction to entertain the suit in question. Therefore, this Court is to consider on the basis of materials available on record and pleadings made by the parties whether this is a fit case to be transferred as prayed by the petitioner wife.

8. Considering the submissions advanced and the pleadings made in the petition, this Court is of the view that it will be difficult on the part of the petitioner wife to contest the matrimonial case at the court of learned District Judge, North Lakhimpur and it will have additional financial burden on her. Accordingly, taking note of the matter in entirety, the present petition is allowed by transferring the case pending in the court of the learned District Judge, North Lakhimpur to the court of learned Principal Judge, Family Court, Kamrup (M) at Guwahati.

9. The court of the learned District Judge, North Lakhimpur shall transmit the record to the court of the learned Principal Judge, Family Court, Kamrup (M) at Guwahati.

10. The parties shall appear before the court of learned Principal Judge, Family Court, Kamrup (M) on 23.06.2023.

11. Registry to communicate this order to the court of learned District Judge, North Lakhimpur as well as the court of the learned

Principal Judge, Family Court, Kamrup (M), at Guwahati.

12. With the aforesaid, the transfer petition stands allowed.

JUDGE

Comparing Assistant