

GAHC010198272022



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

Case No. : Tr.P.(C)./100/2022

MAMTA KUMARI RAI
D/O SHRI PRADYUMNA RAI, R/O MAIJAN THAKURBARI, P.O.-HILOIDHRI,
DIST-DIBRUGARH, ASSAM, PIN-

VERSUS

ARVIND KUMAR SINGH
S/O SHRI JAGDISH SINGH, R/O CHIRWAPATTY NEAR C.T. COLLEGE, P.O.
AND P.S.-TINSUKIA, DIST-TINSUKIA, ASSAM, PIN-

Advocate for the Petitioner : MR. R P SARMAH

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 22-05-2023

1. Heard Mr. R.P. Sarmah, learned counsel for the petitioner.
2. Though notices were duly served, but none appears for the respondent/husband.
3. The present application is filed under section 24 of the Code

of Civil Procedure, 1908 for transfer of the Title Suit (M) No.134/2021, from the court of learned District Judge, Tinsukia to the Court of the learned District Judge, Dibrugarh.

4. The case of the petitioner is that she got married with the respondent on 08.03.2019 as per Hindu customary rituals and commenced conjugal life. Thereafter the respondent in collusion of his family members started inflicting immense mental and physical torture upon the petitioner by saying that he married the petitioner on the wills of his parents and not on his own. To protect herself, she took shelter at her parental residence at Dibrugarh wherein the petitioner gave birth to a boy child on 26.02.2020 who is now 2½ years old. In the meantime, the respondent filed a Title Suit (M) No.134/2019 under section 13(1)(i-a) and (i-b) of the Hindu Marriage Act, 1955 before the learned District Judge, Tinsukia praying for dissolution of marriage.

5. The petitioner claims that she has no source of income and depends on her father for livelihood. The present petitioner submitted that it will be difficult on her part and inconvenient to travel from Dibrugarh to attend the Court of learned District Judge, at Tinsukia. 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, Tinsukia as well as learned District Judge, Dibrugarh 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, Tinsukia 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, Tinsukia to the court of learned District Judge, Dibrugarh.

9. The court of the learned District Judge, Tinsukia shall transmit the record to the court of the learned District Judge, Dibrugarh.

10. The parties shall appear before the court of learned District Judge, Dibrugarh, Assam.

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

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

JUDGE