

GAHC010227192022



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

Case No. : Tr.P.(C)/111/2022

MRS. SNIGDHA BARMAN
W/O- SRI UTPAL CHANDRA DAS, D/O- SRI PRAFULLA BARMAN, R/O-
LICHUBARI, TENGABARI NURSEY PATH NEAR ASSAM AGRICULTURAL
UNIVERSITY, P.O. ASSAM AGRICULTURAL UNIVERSITY, P.S. JORHAT,
DIST.- JORHAT (ASSAM)

VERSUS

UTPAL CHANDRA DAS
S/O- SRI KARUNA KANTA DAS PERMANENT ADDRESS- R/O- VILL-
BONGSOR, GOSAI SUPA, P.S. SUALKUCHI, P.O. BONGSOR, DIST.- KAMRUP,
ASSAM, PIN- 7841103

Advocate for the Petitioner : MS. P BHATTACHARYA

Advocate for the Respondent : MISS. A BARUAH

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

10.03.2023

Heard Ms. P. Bhattacharya, learned counsel for the petitioner. Also heard
Ms. A. Baruah, learned counsel for the respondent.

In view of order dated 27.02.2023, passed in Review Pet.31/2023, this matter was restored to file and taken up for disposal today itself at the motion stage, as agreed to by the learned counsel for the parties.

2. The present application is filed under Section 24 of the Code of Civil Procedure, 1908, for Transfer of matrimonial proceedings, being F.C.(Civil) No. 1180/2022 from the Court of learned Principal Judge, Family Court No. 2, Kamrup (Metropolitan), Guwahati to the Court of learned District Judge, Jorhat.

3. The learned counsel for the petitioner has projected that the marriage was solemnized at Jorhat, and since then she is living at Jorhat with her minor child. It is submitted that the petitioner is now serving as a Teacher in a school at Jorhat and residing in a rented house along with her minor son, who is suffering from some ailment, for which it is not possible for her to travel on each and every date to attend the Family Court proceedings at Guwahati.

4. The present petitioner claims that it will be difficult on her part and inconvenient to travel from Jorhat to attend the Court of learned Principal Judge, Family Court No. II at Kamrup (M), Guwahati with the child. The petitioner further contends that she is solely dependent upon her meager income and on the parents inasmuch as her husband is not supporting her and therefore, she will be burdened with unnecessary expance in contesting the case at Guwahati.

5. The learned counsel for the respondent relying on the affidavit filed raises certain contentions regarding the cruelty meted out by the wife and the actions taken by the respondent husband to protect his wife and child. It is also contended that he was compelled to issue pleaders notice, when he failed to

bring opposite party to his company. In the considered opinion of this Court such fact relates to the merit and claim of the divorce petitioner herself and not so relevant for the purpose of present petition under Section 24 of the Code of Civil Procedure.

6. Regarding the transfer, the learned counsel for the respondent basically contends that the marriage was solemnized at the residence of husband at village Bangshar in the district of Kamrup, and after the marriage both resided as husband and wife at the same village and therefore, in terms of Section 19 of the Hindu Marriage Act, 1955, the divorce petition is rightly filed before the learned Principal Judge, No. II, Family Court, Kamrup (M) at Guwahati.

7. The further contention of the husband is that the respondent husband worked as a Forest Guard in the Department of Forest and his duties involves day and night duties and if the transfer as prayed for is allowed, the same will prejudice him. Further contention raised is his certain illness like poor eye sight etc.

8. Considered the submissions advanced and the pleadings made in the connected application and affidavit.

9. Balancing the inconveniences, this Court is also of the view that it will be more difficult and inconvenient for the petitioner wife to contest the matrimonial case before the learned Court of Principal Judge, Family Court No. II at Kamrup (M), Guwahati with the breast feeding baby and will have additional financial burden of travel from Jorhat to Guwahati i.e. a distance of more than 300 KM. Accordingly, taking note of the matter in entirety, the present petition is allowed by transferring the case pending in the Court of learned Principal Judge, Family

Court No. II at Kamrup (M), Guwahati to the Court of learned District Judge, Jorhat, Assam.

10. The learned Principal Judge, Family Court No. II at Kamrup (M), Guwahati, shall transmit the record to the Court of learned District Judge, Jorhat, Assam.

11. The parties shall appear before the learned Court of learned District Judge, Jorhat, Assam on 10.04.2023.

12. Registry to communicate this order to the Court of learned Principal Judge, Family Court No. II at Kamrup (M), Guwahati as well as the Court of learned District Judge, Jorhat, Assam.

JUDGE

Comparing Assistant