

GAHC010256462022



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

Case No. : Tr.P.(C)/122/2022

CHANDNI SAHANI
W/O- SRI MITHU KUMAR SAHANI, D/O- SRI ASHOK SAHANI, PRESENTLY
RESIDING AT NAUPUKHURI, P.O., P.S. AND DIST. TINSUKIA, ASSAM, PIN-
786125.

VERSUS

MITHU KUMAR SAHANI
S/O- LATE JOGINDER SAHANI, R/O- RUPNAGAR, CINNAMARA, P.O.
CHINNAMARA, P.S. AND DIST. JORHAT, ASSAM, PIN- 785008.

Advocate for the Petitioner : MR. SAILENDRA DEKA

Advocate for the Respondent : MR. D MAZUMDAR

BEFORE
THE HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

15.05.2023

Heard Mr. S. Deka, learned counsel for the petitioner. None appears for the respondent on call.

2. The present application is filed under Section 24 of the Code of Civil Procedure, 1908, for Transfer of Title Suit (Matrimonial) being T.S. (M) No. 168/2022 filed under Section 10 of the Hindu Marriage Act, 1955, by the respondent/husband, pending in the Court of learned District Judge, Jorhat to the Court of learned District Judge, Tinsukia, Assam.

3. The case of the petitioner is that she got married with the respondent on 30.06.2020 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 for want of dowry and other valuables. To protect herself, she took shelter at her parental residence at Tinsukia and on 10.4.2022 wherein the petitioner gave birth to a female child who is now 1 year old. In the meantime, the respondent filed a Title Suit (Matrimonial) No. 186/2022 under Section 9 of the Hindu Marriage Act, 1955 before the learned District Judge, Tinsukia praying for restitution of conjugal life.

4. The petitioner claims that she has no source of income and depends on her parents for livelihood. The petitioner also preferred an application u/s 125 of Cr.P.C before the learned JMFC, Tinsukia 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 Tinsukia to attend the Court of learned District Judge, Jorhat with the breast feeding baby. The petitioner further contends that as the husband is not supporting her financially, she will be burdened with unnecessary expanse.

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, Jorhat as well as learned District Judge, Tinsukia, Assam 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 learned Court of District Judge, Jorhat from Tinsukia with the breast feeding baby and it will have additional financial burden on her. Further, the husband is already contesting the proceeding under Section 125 of the Cr.P.C. initiated by the wife before the learned JMFC, Tinsukia. Accordingly, taking note of the matter in entirety, the present petition is allowed by transferring the case pending in the Court of learned District Judge, Jorhat to the Court of learned District Judge, Tinsukia.

9. The Court of learned District Judge, Jorhat shall transmit the record to the Court of learned District Judge, Tinsukia, Assam.

10. The parties shall appear before the learned Court of District Judge, Tinsukia.

11. Registry to communicate this order to the Court of learned District Judge,

Jorhat as well as the Court of learned District Judge, Tinsukia, Assam.

JUDGE

Comparing Assistant