

**HIGH COURT OF TRIPURA
AGARTALA**

Tr. P.(C) No.8 of 2024

Smt. Mousumi Goswami (Adhikari) Petitioner (s).

Versus

Sri Pranabesh Adhikari Respondent(s).

For Petitioner (s) : Mr. Rajib Saha, Advocate.

For Respondent(s) : Mr. S. Datta, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

25/07//2024

Heard Mr. Rajib Saha, learned counsel for the petitioner and Mr. S. Datta, learned counsel for the respondent.

Respondent has entered appearance on notice

Petitioner-wife seeks transfer of T.S.(Divorce) No.30/2024 from the learned Family Court, Kailashahar to the competent Family Court at Dharmanagar, North Tripura. The marriage between the parties was solemnized on 15.07.2021 as per Hindu rights and rituals. Because of marital discord and torture by the respondent-husband on 20.11.2021 and 13.02.2022, petitioner also got injured. Thereafter, she went to her parental home and instituted a case under Domestic Violence Act, 2005 which is pending before the learned Chief Judicial Magistrate, Dharmanagar. Petitioner is unemployed and wholly dependent upon her parents. She has one minor son living with her. Therefore, it would be onerous for her to attend to the proceedings of the divorce suit at

Kailashahar as she is without any source of income and has to maintain a minor son.

Mr. S. Datta, learned counsel for the respondent has taken objection to the prayer. He submits that Dharmanagar and Kailashahar are not separated by large distance. Therefore, it may not be so difficult for the petitioner-wife to attend to the proceedings of the suit at Kailashahar. Petitioner has, on the other hand, instituted a case under Domestic Violence Act, 2005 which is pending before the learned Chief Judicial Magistrate, Dharmanagar. As such, in case this Court deems it proper to transfer the divorce suit to Dharmanagar, appropriate direction may be issued for posting both the cases in the respective Court on same date.

I have considered the submissions of the learned counsel for the parties and taken note of the relevant material facts placed from record. Since the petitioner-wife is unemployed and wholly dependent upon her parents and she has a minor son born out of the wedlock, she may therefore have genuine difficulties in attending to the divorce suit instituted by the respondent-husband before the learned Judge, Family Court, Unakoti District, Kailashahar. As such, the suit may remain uncontested leading to miscarriage of justice.

In those circumstances, the petitioner being the wife, primacy of convenience lies in her favour. As such this Court is inclined to allow the prayer for transfer of T.S (Divorce) 30 of 2024 from the Court of the learned Judge, Family Court, Unakoti District, Kailashahar to the competent Court of the learned Family Judge, Dharmanagar, North Tripura.

The respondent-husband is at liberty to make a request before the learned Family Judge, Dharmanagar, North Tripura to post the divorce suit on dates, if possible, which coincide with the proceedings before the learned Chief Judicial Magistrate, Dharmanagar.

With these observations, the instant petition is allowed and disposed of.

Ordered accordingly.

Let the records be transferred forthwith.

Interim stay order, if any, stands vacated.

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

(APARESH KUMAR SINGH), CJ



सत्यमेव जयते