

GAHC010046702024



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

Case No. : Tr.P.(C)./26/2024

DEBDALI ROY
W/O- SRIJIT DAS,
D/O- LATE MIHIR KANTI ROY,
C/O- KRISHNA ROY,
PUSPA BIHAR LANE,
NEAR IMPULSE DIAGNOSIS
MEHERPUR, P.O.- MEHERPUR,
P.S.- RANGIRKHARI, PIN- 788015,
SILCHAR.

VERSUS

SRIJIT DAS
R/O- H.NO. 5, LINK ROAD,
ODALBAKRA, LALGANESH,
GUWAHATI, P.O.- ODALBAKRA,
P.S.- DISPUR, KAMRUP(M),
PIN- 781034.

For the Petitioner(s) : Mrs. R. Choudhury, Advocate.

For the Respondent(s) : Mr. S. Sharma, Advocate.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 10.04.2024

1. This is an application filed under Section 24 of the Code of Civil Procedure,

1908 seeking transfer of F.C.(Civil) Case No.1577/2023 from the Court of the Principal Judge, Family Court, Kamrup (M), Guwahati to the Court of the Family Court, Cachar at Silchar.

2. The case of the Petitioner is that the marriage between the Petitioner and the Respondent was solemnized on 20.04.2022 before the Marriage Registrar at Cachar under hindu rites and customs including Saptapadi at Silchar, Cachar and since then, the Petitioner and the Respondent were living as husband and wife

3. The learned counsel for the Petitioner submitted that after staying in the in-laws house for some time, they left for Pune as both of them were working at Pune. The Petitioner was happy with her husband and they were planning for a secured future for which they booked a flat in Pune. On account of some family disputes, the Respondent left for his parents' house on 03.10.2023. The learned counsel for the Petitioner further submitted that when the Petitioner enquired over phone and asked whereabouts of the Respondent, the Respondent informed the Petitioner that he is planning to come down to Pune with his parents from Guwahati. Thereafter, the Petitioner received a notice of divorce case and as per the notice, she has to appear before the learned Family Court No.1, Kamrup (M) on 22.03.2024. The learned counsel for the Petitioner further submitted that it is not possible on the part of the Petitioner to appear on each and every date before the learned Family Court at Guwahati as she does not have any other place to stay at Guwahati other than her in-laws house. It is under such circumstances, the instant petition has been filed seeking transfer of F.C.(Civil) Case No.1577/2023 from the Court of the learned Principal Judge, Family Court Kamrup (M) at Guwahati to the Family Court, Cachar at Silchar.

4. This Court has duly taken note of that in terms with Section 19 of the

Hindu Marriage Act, 1955 as well as under Section 31 of the Special Marriage Act, 1954, the jurisdiction to file a proceedings under the respective acts are either where the defendant is residing or where the marriage took place or where the parties jointly resided earlier. In the instant case, the defendant i.e. the Petitioner herein resides at Silchar, marriage took place silchar and the parties earlier jointly resided at Pune in the State of Maharashtra. Taking into account that as the defendant presently resides at Silchar, it is the opinion of this Court that the proceedings of F.C.(Civil) Case No.1577/2023 is required to be transferred.

5. Accordingly, the proceedings in F.C.(Civil) Case No.1577/2023 is transferred from the Court of the learned Principal Judge, Family Court, Kamrup (M), Guwahati to the learned Family Court, Cachar at Silchar.

6. The parties are directed to appear before the learned Family Court, Cachar at Silchar on 28.05.2024. On that date, the Petitioner shall file her written statement without fail.

7. The Court of the learned Principal Judge, Family Court, Kamrup (M), Guwahati is directed to forthwith transfer the records to the learned Family Court, Cachar at Silchar.

8. The interim order dated 15.03.2024 stands vacated and the learned Family Court, Cachar at Silchar shall proceed with the disposal of the proceedings in accordance with law.

9. The Registry is directed to intimate both the Courts below about the instant order.

10. With above observations and directions, the instant petition stands allowed.

JUDGE

Comparing Assistant