

GAHC010062942023



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

Case No. : Tr.P.(C)/26/2023

BARNALI DEKA

W/O- SRI MUNINDRA DAS, D/O- SRI KHUDI RAM DEKA, R/O- VILL.- PUB
NALBARI, TANGLA TOWN, P.S. TANGLA, DIST.- UDALGURI (BTR), ASSAM,
PIN- 785421.

VERSUS

MUNINDRA DAS

S/O- SRI PHUKAN DAS, R/O- VILL.- BARNIBARI, P.S. MUKALMUA, DIST.
NALBARI, ASSAM, PIN- 781304.

Advocate for the Petitioner : MR. P K BARMAN

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

22.03.2024

This is an application under Section 24 read with Section 151 of the Code of

Civil Procedure, 1908 (for short, the Code) for transfer of Matrimonial (Divorce) Suit No.168/2022 pending in the Court of the learned Principal Judge, Family Court, Nalbari to the learned District & Sessions Judge, Udalguri.

2. The case of the petitioner is that the petitioner and the respondent are both husband and wife and their marriage was solemnized at Udalguri. It is also submitted that after marriage, both the petitioner and the respondent resided together at Nalbari. Later on, due to certain matrimonial disputes, the petitioner left her matrimonial home at Nalbari and started living with her parents at Udalguri, wherein a female child was born out of the said wedlock.

3. From a perusal of the averments, it has been categorically mentioned that the marriage was solemnized at Udalguri. The petitioner presently resides at Udalguri in her parental house and at the time when the application for divorce by the respondent herein was presented, the petitioner also resided at Udalguri. In addition to that, this Court finds it relevant to take note of that the petitioner is a lady and has expressed fear and medical inconvenience for travelling to Nalbari.

4. This Court vide order dated 24.03.2023 issued notice and further stayed the proceedings before the Court of the learned Principal Judge, Family Court, Nalbari. Notice was sent to the respondent and inspite of receipt of notice, the respondent did not appear.

5. Under such circumstance, this Court transfers the Matrimonial (Divorce)

Suit No.168/2022 from the Court of the learned Principal Judge, Family Court, Nalbari to the learned District & Sessions Judge, Udalguri.

6. The learned Principal Judge, Family Court, Nalbari is hereby directed to forthwith upon receipt of a copy of this instant order to transfer the case records of Matrimonial (Divorce) Suit No.168/2022 to the Court of the learned District & Sessions Judge, Udalguri.

7. The Registry is further directed to intimate the Court of the learned Principal Judge, Family Court, Nalbari as well as the learned District & Sessions Judge, Udalguri about the instant order.

8. Taking into account that the respondent has not appeared and remained unrepresented, the learned District & Sessions Judge, Udalguri upon the matrimonial suit being transferred shall issue notice to the respondent herein in the said proceeding. As the petitioner herein has not yet filed the written statement, the petitioner shall file her written statement on the date of her appearance before the Court of the learned District & Sessions Judge, Udalguri. Accordingly, this Court fixes the matter for appearance of the petitioner before the learned District & Sessions Judge, Udalguri on 13.05.2024. The learned District & Sessions Judge, Udalguri shall thereupon proceed with the disposal of the said proceedings in accordance with law.

9. With the above, the transfer petition stands allowed.

10. Interim order passed earlier stands vacated.

JUDGE

Comparing Assistant