

GAHC010109912022



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

Case No. : Tr.P.(C)./72/2022

SUPRIYA DEY MANIK
W/O. SRI ABHIJIT MANIK, PRESENTLY RESIDING AT HARULONGPHER
CHURCH ROAD, JUNGLI KALI BARI, P.O. AND P.S. LUMDING, DIST. HOJAI,
ASSAM, PIN-782447.

VERSUS

ABHIJIT MANIK
S/O. SRI AMAR MANIK, R/O. HARI SABHA ROAD, DHEKIAJURI, BENGALI
GAON, P.O. AND P.S. AND DIST. TINSUKIA, ASSAM, PIN-786146.

Advocate for the Petitioner : MR. U B SARMA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

11.03.2024

This is an application under Section 24 of the Code of Civil Procedure, 1908

(for short, the Code) for transfer of Title Suit (Matrimonial) No.41/2022 from the Court of the learned Additional District and Sessions Judge, Tinsukia to the Court of learned District and Session Judge, Hojai at Sankardev Nagar.

2. The records reveal that the respondent has been duly served and inspite of that the respondent has not entered appearance. From the materials on record, it reveals that the marriage between the petitioner and the respondent was solemnized on 17.01.2020 and out of the said wedlock a girl child was born on 05.11.2020. On account of certain matrimonial differences, the petitioner is residing with her minor child at her paternal house at Lumding. On account of the alleged cruelty, the petitioner has also lodged a complaint against the respondent before the Court of the learned Chief Judicial Magistrate, Hojai at Sankardev Nagar which has been registered as C.R Case No.702/2021 and is presently pending before the Court of the learned JMFC Hojai at Sankardev Nagar. In addition to that the petitioner has also lodged a domestic violence case being DV No.324/2021 and is presently pending in the Court of the learned SDJM Hojai at Sankardev Nagar. While the said proceedings were pending, the petitioner in the month of March, 2022, received notice along with a copy of the plaint from the learned Additional District and Sessions Judge, Tinsukia in connection with Title Suit (Matrimonial) No.41/2022. The said application is an application for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955. Thereupon, owing to the difficulties faced by the petitioner to participate in the said proceedings physically as well as on medical ground, the instant application has been filed seeking transfer of the case from the Court of the learned Additional District and Sessions Judge, Tinsukia to the Court of the learned District and Sessions Judge, Hojai at Sankardev Nagar.

3. This Court has heard Mr. UB Sarma, the learned counsel appearing for the petitioner, who duly submits that the petitioner does not only have the financial resources to participate in the proceedings at Tinsukia, but also she is medically unwell. This Court also having taken into account that two other proceedings are presently pending under the jurisdiction of the learned Chief Judicial Magistrate Hojai is of the opinion that the Title Suit (Matrimonial) No.41/2022 in the interest of justice is required to be transferred from the Court of the learned Additional District and Sessions Judge, Tinsukia to the Court of the learned District and Sessions Judge, Hojai at Sankardev Nagar. Consequently, this Court in exercise of power under Section 24 of the Code transfers the said proceedings i.e. Title Suit (Matrimonial) No.41/2022 from the Court of the learned Additional District and Sessions Judge, Tinsukia to the Court of the learned District and Sessions Judge, Hojai at Sankardev Nagar.

4. The Court of the learned Additional District and Sessions Judge, Tinsukia is directed to forthwith transmit the records of Title Suit (Matrimonial) No.41/2022 to the Court of the learned District and Sessions Judge Hojai at Sankardev Nagar so that the Court of the learned District and Sessions Judge Hojai is in a position to take up the said proceedings for disposal. The Registry is, therefore, directed to intimate both the Courts below of the order so passed.

5. This Court has also enquired from the learned counsel appearing on behalf of the petitioner as to whether the petitioner has filed the written statement. The learned counsel submitted that no written statement had been filed yet. Taking into account the above, this Court fixes the matter i.e. Title Suit

(Matrimonial) No.41/2022 on 10.04.2024 before the learned District and Sessions Judge, Hojai at Sankardev Nagar. On the said date fixed, the petitioner shall submit her written statement before the said Court. The learned District and Sessions Judge, Hojai shall thereupon proceed with the disposal of the said proceedings in accordance with law.

6. Interim order so passed, if any, shall stand vacated in view of the above.

JUDGE

Comparing Assistant