

GAHC010157752022



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

Case No. : Tr.P.(C)./79/2022

SMTI BINITA THAPA
W/O SRI KHEMRAJ THAPA, VILL-CHANDMARI BANGALI, P.O.-KAARI
PATHAR, P.S.-HALEM, DIST-BISWANATH, ASSAM, PIN-74170

VERSUS

KHEMRAJ THAPA
S/O SRI CHAKRA THAPA, VILL-TUPIA BAGABIL, P.O. AND P.S.-JAMUGURI,
DIST-SONITPUR, ASSAM, PIN-784180

Advocate for the Petitioner : MR. B C DAS,

Advocate for the Respondent : MR A SAIKIA,

Linked Case : MC/18/2024

BIPIN CHANDRA DAS
S/O LATE MUKTIR RAM DAS
R/O 36 NAHARANI PATH
DISPUR LAST GATE
GUWAHATI-781001
DIST. KAMRUP(METRO)
ASSAM

VERSUS

KHEMRAJ THAPA
S/O SRI CHAKRA THAPA
VILL-TUPIA BAGABIL
P.O. AND P.S.-JAMUGURI
DIST-SONITPUR
ASSAM
PIN-784180

Advocate for : MR. B C DAS
Advocate for : appearing for KHEMRAJ THAPA

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 23-09-2024

Heard Mr. B.C. Das, learned counsel for the petitioner. I have also heard Mr. A. Saikia, learned counsel appearing on behalf of the respondent.

2. By filing this application under section 24 of the Code of Civil Procedure, the petitioner is seeking transfer of the case T.S.(Matrimonial) pending in the Court of District Judge, Sonitpur to the Court of the District Judge, Biswanath.

3. The learned counsel for the petitioner submits that the petitioner is wife and the respondent is husband and their marriage was solemnized at Biswanath in the **year 2009**. However, due to marital discord developed between them, they are now separately staying.

4. It is submitted that the respondent husband has filed a divorce petitioner under section 13(1) (a) of the Hindu Marriage Act before the Court of District Judge at Tezpur, District of Sonitpur, Assam against the

petitioner seeking divorce against her. The said suit has been registered as Title Suit (M) No.94/2021. It is stated that the petitioner is staying at her father's house in village at Chandmari Bengali under Halem Police Station of Biswanath district at a distance of 105 km from Tejpur of Sonitpur district Assam and the respondent is serving in 25 Assam Rifle and at present he is posted in the state of Manipur. It is further submitted that the said divorce petition has been deliberately filed by the respondent at Tejpur which is 105 KMs from Biswanath in order to cause unnecessary harassment to the petitioner while fully knowing that the petitioner is stationed at village in Biswanath District.

5. The learned counsel for the petitioner submits that the petitioner is unemployed without any source of income of her own and fully dependent on her old and poor ailing father and as such, it is quite difficult for her to attend the Court at Tejpur in Sonitpur district with her 5-year-old daughter. The learned counsel for the petitioner further submits that due to the difficulties in travelling, the petitioner could not take part in proceeding of Title Suit (M) No.94/2021 filed by the respondent husband. It is further submitted that as the respondent husband is Government employee now posted in Manipur, no prejudice will cause to him, if the case is transferred to Biswanath. Therefore, the petitioner prays to withdraw the said Divorce petition being Title Suit (M) No.94/2021 on the file of the District Judge, Sonitpur and transfer the same to the Court of District Judge at Biswanath.

6. Mr. A. Saikia, learned counsel for the respondent fairly submitted that at present the respondent husband is being posted in Manipur; so, he has no objection if the above case- Title Suit (M) No.94/2021 pending before the Court of District Judge, Sonitpuris transferred to the Court of the District

Judge, Biswanath.

7. In view of above, and as agreed upon by the parties, the prayer for transfer of the Title Suit (M) No.94/2021 from the Court of District Judge, Sonitpur to the Court of the District Judge, Biswanath is allowed.

8. Accordingly, the case Title Suit (M) No.94/2021 pending before Court of District Judge, Sonitpur is ordered to be transfer transferred to the Court of the District Judge, Biswanath for further trial and disposal.

9. The parties are directed to appear before the transferee Court at District Judge, Biswanath on 30.10.2024 and thereafter, the District Court Biswanath would regulate the hearing.

10. With the observation above, this transfer petition stands disposed of.

JUDGE

Comparing Assistant