

GAHC010170662022



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

Case No. : Tr.P.(C)/88/2022

RAMESH AGARWAL
S/O LATE SURAJMAHAL AGARWAL
R/O CENTRE POINT, ABHIGUNA RESIDENCY, FLAT NO. 3 (A), JALUKBARI
P.O. MALIGAON, P.S. JALUKBARI, GUWAHATI, DIST. KAMRUP
(METROPOLITAN), ASSAM, PIN-781035

VERSUS

DEEPSIKHA AGARWAL
W/O SHRI RAMESH AGARWAL
D/O SHRI HARI RAM AGARWAL
R/O JAGUN BAZAR,
P.O. JAGUN
P.S. LEKHAPANI
DIST. TINSUKIA, ASSAM,
PIN-786188

Advocate for the petitioner(s): Mr. G Alam

Advocate for the respondent(s): Mr. SP Choudhury

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

27.05.2024

Heard Mr. G Alam, the learned counsel appearing on behalf of the petitioner and Mr. SP Choudhury, the learned counsel appearing on behalf of the respondent.

2. This is an application under Section 24 of the Code of Civil Procedure, 1908 (for short, the Code) for transfer of Title Suit (M) No.37/2020 pending in the Court of the learned District Judge No.1 Margherita to the Court of the learned Principal Judge, Family Court, Karmup(Metro) Guwahati.

3. The brief facts of the case are that the petitioner and the respondent are husband and wife and they got married on 01.12.1995 as per Hindu rites and customs at Guwahati. They have three children out of the said wedlock and all are grown up and settled in their respective career.

4. In the meantime, certain disputes arose between the parties which led the respondent to leave her matrimonial house at Guwahati and take shelter at her paternal house at Tinsukia. Thereafter, the respondent filed a petition for dissolution of marriage under Section 13(1)(i)(a) of the Hindu Marriage Act, 1955 in the Court of the learned Additional District Judge No.1, Margherita. The said petition was registered as Title Suit (M) Case No.37/2020.

5. It is submitted by the learned counsel appearing on behalf of the petitioner

that the petitioner and his family members made repeated requests to the respondent to return back to her matrimonial home at Guwahati, but the respondent did not return. It is further stated that a conciliation process was also arranged between the parties, however, the same failed as the respondent did not turn up. Hence the present application under Section 24 of Code of Civil Procedure praying for transfer of the proceedings from the Court of the learned District Judge No.1 Margherita to the Court of the learned Principal Judge, Family Court, Karmup(Metro) Guwahati on the ground of inconvenience of the petitioner to travel from Guwahati to Tinsukia due medical condition. It is submitted that the petitioner is suffering from acute depression due to loneliness and the petitioner is unable to travel alone and requires an attendant to look after him.

6. On the basis of the aforesaid grounds, the instant application was filed and this Court vide an order dated 26.08.2022 issued notice and till the returnable date stayed the further proceedings in Title Suit (M) No.37/2020 pending in the Court of the learned District Judge No.1 Margherita.

7. I have heard the learned counsels appearing on behalf of the parties and perused the instant application. On perusal of the grounds stated therein, the same does not inspire confidence of this Court for exercise of the powers under Section 24 of the Code for transfer.

8. It is also very relevant to take note of that the proceedings before the Court of the learned Additional District Judge No.1 Margherita is not a

proceedings akin to the proceedings before a Family Court and as such, the provisions of Section 13 of the Family Courts Act, 1984 does not apply. Consequently, the petitioner can very well represent himself through a counsel except on those occasions on which the Court may require the presence of the petitioner or for that matter when the petitioner has to appear to face the cross examination.

9. Under such circumstances, this Court finds no ground to transfer the Title Suit (M) No.37/2020 from the Court of the learned District Judge No.1 Margherita to the Court of the learned Principal Judge, Family Court, Karmup(Metro) Guwahati and the same stands rejected.

10. Accordingly, the interim order passed earlier stands vacated.

11. Taking into account that both the parties are duly represented before this Court, they are directed to appear before the Court of the learned District Judge No.1 Margherita on 15.07.2024 either in person or through their counsels. The Court of the learned District Judge No.1 Margherita shall thereupon proceed with the disposal of the said proceedings in accordance with law.

JUDGE

Comparing Assistant