

GAHC010206972023



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

Case No. : Tr.P.(C)/86/2023

MAMONI DAS DEY
WIFE OF SRI DILIP DEY,
DAUGHTER OF SRI KARUNAMOI DAS,
RESIDENT OF SEGUNBARI, MARGHERITA (NEAR DURGA MANDIR),
P.O. AND P.S.- MARGHERITA,
DISTRICT- TINSUKIA (ASSAM),
PIN- 786181.

VERSUS

DILIP DEY
SON OF SRI DINESH DEY,
RESIDENT OF NAOHOLIA/ NAHOLIA (NEAR POLICE STATION),
P.O. AND P.S.- NAOHOLIA/ NAHOLIA,
DISTRICT- DIBRUGARH (ASSAM),
PIN- 786191.

Advocate for the Petitioner : MR.A K SHARMA, MR. A MOBARAQUE

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 23.10.2024

Heard Mr. A.K. Sharma, learned counsel for the petitioner. None appears for the respondent, though notice was served upon him as per office note, dated 29.07.2024.

2. This transfer petition, under Section 24 of the CPC, is preferred by the petitioner for transferring Title Suit (D) No. 67/2023, pending before the Court of learned Addl. District Judge (FTC), Dibrugarh, to the Court of learned Addl. District Judge, Margherita.

3. Mr. Sharma, learned counsel for the petitioner submits that the respondent herein is the husband of the petitioner and their marriage was solemnized at Segunbari, Margherita on 08.03.2021, and thereafter the petitioner started residing with the respondent at his native place at Naoholia in the Dibrugarh district. After the marriage between the petitioner and the respondent, marital discord surfaced between them and presently the petitioner is residing at her parental abode at Segunbari, Margherita. Mr. Sharma further submits that the respondent herein has instituted a divorce proceeding, being Title Suit (D) No. 63/2023, before the Court of learned Addl. District Judge (FTC), Dibrugarh. Mr. Sharma also submits that the petitioner had received notice in the aforesaid proceeding and thereafter, she has approached this Court for transferring the aforesaid proceeding from the Court of learned Addl. District Judge (FTC), Dibrugarh to the Court of learned Addl. District Judge, Margherita. It is the further submission of Mr. Sharma that the distance between Margherita and Naoholia, the native place of the respondent, is around 46 kilometres and the

distance between Margherita and Dibrugarh Town is around 100 kilometres, and that distance between Naoholia to Dibrugarh is around 50 kilometres and the petitioner being a lady, would not be able to undertake such a journey from Margherita to Dibrugarh and that two other proceedings, one under the Domestic Violence Act, and the other under Section 125 of the Cr.P.C., are also pending at Margherita before the Court of learned Sub-Divisional Judicial Magistrate, Margherita and in those proceedings, the respondent had entered appearance and contesting the same and as such, it would be convenient not only for the petitioner, but also for the respondent from all sides including distance, if the proceeding of Title Suit (D) No. 67/2023 is transferred from the Court of learned Addl. District Judge (FTC), Dibrugarh to the Court of learned Addl. District Judge, Margherita.

4. Having heard the submission of Mr. Sharma, learned counsel for the petitioner, I have carefully gone through the petition and the documents placed on record.

5. As already stated, the respondent has not contested this petition, though notice was served upon him. It appears from the submission of Mr. Sharma, learned counsel for the petitioner that the distance between Naoholia and Dibrugarh Town is around 50 kilometres and the distance between Naoholia and Margherita is around 46 kilometres, which is less than Naoholia to Dibrugarh. Besides, two more proceedings are pending between the parties in the Court at Margherita, wherein the respondent has been appearing. In that view of the matter, no inconvenience will be caused to the respondent herein in contesting the suit at Margherita in the event of transferring the suit from the Court of learned Addl. District Judge (FTC), Dibrugarh to the Court of learned Addl. District Judge, Margherita.

6. Having considered the submission of Mr. Sharma, learned counsel for the petitioner and also considering the facts and circumstances on the record, and discussed herein above, specially the balance of convenience of both the parties, this Court is inclined to allow this petition.

7. Accordingly, it is provided that Title Suit (D) No. 67/2023, pending before the Court of learned Addl. District Judge (FTC), Dibrugarh be transferred to the Court of learned Addl. District Judge, Margherita. The petitioner shall obtain a certified copy of this order and place the same before the learned Addl. District Judge (FTC), Dibrugarh and on receipt of the same, the learned Addl. District Judge (FTC), Dibrugarh shall take necessary steps for sending the case file to the Court of learned Addl. District Judge, Margherita.

8. In terms of above, this transfer petition stands disposed of.

JUDGE

Comparing Assistant