

GAHC010211592023



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

Case No. : Tr.P.(C)/89/2023

SMTI. BABY BHOWMICK
W/O SOUMEN CHOWDHURY, D/O NARAYAN BHOWMICK, R/O JAGIROAD
SHYAMA PALLY, P.O. AND P.S.-JAGIROAD, DIST- MORIGAON, ASSAM, PIN-
782410

VERSUS

SOUMEN CHOWDHURY
S/O LATE SUBIMAL CHOWDHURY, R/O STATION ROAD, LUMDING, P.O.
AND P.S.-LUMDING, DIST- HOJAI, ASSAM, PIN-782447

Advocate for the Petitioner : Mr. K.M. Hasan

Advocate for the Respondent : MR. N K KALITA

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 24.06.2024

This is an application filed under Section 24 of the Code of Civil Procedure, 1908 for transfer of Tile Suit (D) No. 82/2022 pending before the Court of the learned Additional District and Session Judge, Hojai, Sankardev Nagar to the Court of the learned District & Sessions Judge, Morigaon.

2. It is the case of the petitioner that the petitioner is presently residing at Jagiroad Shyama Pally Jagiroad in the District of Morigaon.

3. The petitioner was married to the respondent on 05.07.2018 under the Hindu rites and rituals in the District of Morigaon, Assam. After solemnisation of marriage, the respondent took the petitioner to the house of the respondent at Station Road, Lumding and they were residing as husband and wife together. Thereupon on account of some matrimonial feuds the petitioner came back to Jagiroad and had been residing at Jagiroad since then.

4. The respondent herein thereupon filed a Title Suit in the Court of the Additional District and Sessions Judge, Hojai, Sankardev Nagar for judicial separation under Section 10 of the Hindu Marriage Act, 1955 which was registered as T.S. (Judicial Separation) No. 70/2019.

5. The petitioner thereupon filed a transfer petition before this Court seeking transfer of the said T.S (Judicial Separation) No. 70/2019 from the Court at Sankardev Nagar, Hojai to Morigaon. The said transfer petition was registered as numbered as Transfer Petition (C) No. 16/2020. Vide an order dated 19.01.2021, this Court had transferred the said proceedings i.e. T.S. (Judicial Separation) No. 70/2019 from the Court of the Additional District Judge, Hojai, Sankardev Nagar to the Court of the learned District Judge, Morigaon.

6. Subsequent there to the respondent herein had withdrawn the said proceedings being Title Suit (Judicial Separation) No. 70/2019 and there upon instituted Title Suit (D) No. 82/2022. The petitioner upon receipt of the said summons, filed the instant petition expressing great inconvenience on the part of the petitioner to again participate in the said proceedings.

7. This Court has heard the learned counsel appearing on behalf of the petitioner and also the learned counsel appearing on behalf of the respondent.

8. The reasons for which this Court had earlier transferred the proceedings of Title Suit (Judicial Separation) No. 70/2019 still exists in the instant proceedings and as such this Court is of the opinion that the instant proceedings i.e. Title Suit (D) No. 82/2022 is also required to be transferred from the Court of the learned Additional District and Sessions Judge, Hojai, Sankardev Nagar to the Court of the learned District and Sessions Judge Morigaon.

9. Accordingly, the proceedings in Title Suit (D) No. 82/2022 is transferred from the Court of the Additional District and Sessions Judge, Hojai, Sankardev Nagar to the Court of learned District and Sessions Judge, Morigaon.

10. Taking into account that the parties are duly represented, they are directed to appear before the learned court of the District Judge, Morigaon on 29.07.2024. The petitioner herein is given the liberty to file her written statement on the date so fixed hereinabove.

11. The Court of the learned Additional District and Sessions Judge, Hojai, Sankardev Nagar is directed to forthwith transfer the records to the Court of the learned District and Sessions Judge, Morigaon.

12. The interim order dated 20.09.2023 stands vacated and the Court of the learned District and Sessions Judge Morigaon shall proceed with the disposal of the proceedings in accordance with law.

13. The Registry is directed to intimate both the Courts below about the instant order.

14. With above observations and directions, the instant petition stands allowed.

JUDGE

Comparing Assistant