

GAHC010265122023



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

Case No. : Tr.P.(C)./114/2023

DR. SUPARNA DEY CHOUDHURY
W/O SRI SUBHASHISH DEB, D/O SRI SANJEEBAN DEY CHOUDHURY, R/O
HOUSE NO. 30, SUNDARI MOHAN LANE, RANGERKHARI, SILCHAR, NEAR
MASJID, MARWARI PATTI, P.S.-SILCHAR, P.O.-RANGIRKHARI, DIST-
CACHAR (ASSAM)

VERSUS

SUBHASHISH DEB
S/O ASHISH KUMAR DEB, R/O SILCHAR ROAD, KARIMGANJ, P.O.-
SILCHAR, WARD NO. 27, P.S. AND DIST-KARIMGANJ, ASSAM

For the Petitioner(s) : Mr. T. Roy, Advocate

For the Respondent(s) : Mr. A. Dhar, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 29.04.2024

Heard Mr. T. Roy, the learned counsel for the Petitioner and Mr. A. Dhar, the learned counsel appearing for the Respondent.

2. This is an application under Section 24 read of the Code of Civil Procedure,

1908 for transfer of Title Suit (Divorce) Case No.153/2022 pending before the Court of the learned District Judge, Karimganj, Assam to the Court of the learned District Judge, Silchar, Assam.

3. The brief facts of the case are that the marriage between the Petitioner and the Respondent was solemnized on 30.11.2020 at Silchar according to hindu rites and customs. Thereafter, both the husband and wife were living together at the house of the Respondent at Sarisha, Karimganj along with the family members of the Respondent. On 14.12.2020, as per the advice of the husband, the Petitioner took admission at the College of Physiotherapy and Medical Science at Guwahati for Masters in Physiotherapy. The husband of the Petitioner is a Physician by occupation and he is serving at Karimganj Civil Hospital, Karimganj.

4. It is the case of the Petitioner that after taking admission at the college of Physiotherapy and Medical Science, Guwahati, the petitioner came to her in-laws house in the month of January, 2021. The family members of the Respondent kept her living room under lock with the intention that the petitioner left her matrimonial house. Under such circumstances, the Petitioner had to go to her paternal house at Silchar in the month of December, 2022 and since then, both the Petitioner and Respondent are living separately at their respective houses.

5. The learned counsel for the Petitioner submitted that thereafter the Respondent never made any attempt to solve the matrimonial disputes which arose between them and even the Respondent neither made any communication nor made any attempt to return back the petitioner to her matrimonial house. In the meantime, the Respondent without taking any appropriate steps for settling the matrimonial disputes filed a divorce petition

being Title Suit (Divorce) Case No.153/2022 under Section 13 of the Hindu Marriage Act, 1955 before the Court of the learned District Judge, Kamimganj.

6. It is the case of the Petitioner that the father of the Petitioner has been suffering from high blood pressure as well as other old age ailments and the mother of the Petitioner is also suffering from various old age ailments and in that case, it will be difficult on the part of the Petitioner's parents and also for the Petitioner to appear each and every date before the Court of the learned District Judge, Karimganj which is more than 55 Kilometer away from the paternal house of the Petitioner i.e. Silchar. It is under such circumstances, the instant transfer petition has been filed by the Petitioner.

7. I have heard the learned counsels for the parties.

8. Upon hearing the learned counsels for the parties and perusal of the records, this Court is of the opinion that the grounds assigned in the instant application are not sufficient for the purpose of transferring the said Title Suit (Divorce) Case No.153/2022 from the Court of the learned District Judge, Karimganj, Assam to the Court of the learned Principal Judge, Family Court at Silchar, Assam.

9. The difficulties so mentioned in the said application seeking transfer, in the opinion of this Court are misconceived inasmuch as the Petitioner had no difficulty in going to Guwahati to pursue her education alone leaving behind her parents. The said excuse is nothing but untenable. Apart from that, the petitioner can very well engage an advocate to appear on her behalf in the said Court at Karimganj, Assam and it is only on the occasions when her personal presence would be required, then she can very well appear before the said Court in person.

10. Consequently, this Court finding no tenable grounds for transfer, dismisses the instant petition.

11. The interim order dated 22.01.2024 whereby the further proceedings of the Title Suit (Divorce) Case No.153/2022 was stayed, is hereby vacated and the parties are directed to appear before the learned Court of the District Judge, Karimganj on 03.06.2024 either by themselves or by their engaged counsels.

JUDGE

Comparing Assistant