

GAHC010270982023



2024:GAU-AS:12169

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

Case No. : Tr.P.(C)./112/2023

LEENA MONI HAZARIKA
D/O SRI NAGEN HAZARIKA W/O BIKI CHETRY R/O OF TELIA PATTY NEAR
HIMALAYAN ICE FACTORY PO HUZRANGAGARA P.S. NAGAON SADAR
DIST. NAGAON ASSAM PIN782002

VERSUS

BIKI CHETRY
S/O ABHRAM CHETRY R/O RANGMAHALAY WARD NO. 8 LANKA TOWN
P.O. LANKA P.O. P.S LANKA DIST. HOJAIN ASSAM PIN 782446 MOBILE NO.
7002654762

Advocate for the Petitioner : ALHAJJ I UDDIN, MRS. R MOMTAZ,MR R HOQUE,H M I
HOQUE

Advocate for the Respondent : MR Z ALAM, MR. S K DAHAL,R ISLAM,MS. S NAZNEEN

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 02-12-2024

Heard Mr. A. I. Uddin, learned counsel for the petitioner. I have also
heard Ms. S. Nazneen, learned counsel appearing on behalf of the

respondent.

2. This petition filed under section 24 of the Code of Civil Procedure 1908 read with Article 227 of the Constitution of India, has been preferred by the petitioner wife, seeking transfer of the Title Suit (D) 79/2023 filed by the respondent husband, under section 13(i) (a) (b) of the Hindu Marriage Act 1955, praying for a decree of dissolution of marriage in his favour now pending in the Court of District Judge, Hojai, Sankaedev Nagar to the Court of District Judge, Nagaon.

3. The learned counsel for the petitioner submits that the petitioner is the wife, and the respondent is the husband, and their marriage was solemnized on 11.2.2015, in the residence of the petitioner at Nagaon as per the Hindu rites and customs. Out of the said marriage, they have begotten a female child on 15.11.2016, who is now staying with the petitioner. However, due to non fulfilment of dowry demand the respondent mentally and physically tortured the petitioner and ultimately on 23.11.2022, the husband has driven out the petitioner along with their daughter from his house. Since then, the petitioner is taking shelter in her parental house at Nagaon with her daughter.

4. The learned counsel for the petitioner submits that due to physical and mental harassment caused by the respondent, the petitioner has filed Domestic Violence case against the respondent before the Court of the Judicial Magistrate Nagaon being DV Case No.453 of 2023. And being unable to maintain herself and her minor daughter, she also filed a petition under section 125 Cr.P.C, in the Court of the Judicial Magistrate, First Class, Nagaon, being M. R Case No.236 of 2023. The learned counsel further submits that under the circumstances, the petitioner is seeking decree of

divorce from the opposite party, and she has also instituted Matrimonial Case No.88 of 2023, which is now pending disposal in the Court of District Judge, Nagaon. The learned counsel for the petitioner submits that all the above aforementioned cases are now pending for disposal in the Courts under the jurisdiction of the District Judge Nagaon.

5. It is submitted that the respondent husband thereupon has filed a Divorce petition before the District Judge, Hojai, against the petitioner seeking divorce against her. It is submitted that the said Divorce petition has been deliberately filed by the petitioner at Hojai. without any just ground in order to cause unnecessary harassment to the petitioner, while fully knowing that the petitioner is stationed at Nagaon.

6. The learned counsel for the petitioner further submits that since the petitioner has no any independent sources of income and as such, she cannot afford to bear expenses to go to Hojai, to attend the Court of District Judge, and at the same time to attend the Court at Nagaon, for maintenance, Domestic Violence case and Divorce Petition filed by her. Therefore, the petitioner prays to withdraw the said Divorce Petition TS(D) 79/2023, and transfer the same to the Court of District Judge Nagaon.

7. The learned counsel for the respondent husband did not controvert the fact. While conceding the submission of the learned counsel for the petitioner, she fairly submitted that the maintenance petition being M.R Case 236/2023; case filed under Domestic Violence Act, being DV Case No.453/2023, and the Matrimonial Case No.88/2023, filed by the petitioner are all pending disposal in the Courts under the jurisdiction of the District Judge, Nagaon. Under the circumstances, the learned counsel for the respondent has no objection, if the divorce suit- T.S. (D) 79/2023, filed by

the respondent husband before the Court of District Judge, Hojai is being transferred to the Court of District Court, Nagaon. However, she prays that since the Matrimonial Case No.88/2023, filed by the petitioner wife, and the Title Suit(D) 79/2023, filed by the respondent at District Judge, Hojai, are filed seeking a decree of divorce, therefore, the said two cases, seeking the same relief may be taken up together by the Court of Additional District Judge, Nagaon.

8. Heard the learned counsel for the parties and perused the materials available on record and considered.

9. After perusal of the record and on consideration of the submissions made by both the learned counsel for the parties, it appears that the respondent husband has filed Title Suit (D) 79/2023 under section 13(i) (a) (b) of the Hindu Marriage Act 1955, seeking dissolution of marriage solemnized between the parties. The said petition is pending before the Court of District Judge, Hojai, whereas the Matrimonial Case No.88/2023 filed by the petitioner seeking decree of divorce is pending before the Court of Additional District Judge, Nagaon. It appears that the evidence to be produced to prove their case in the aforesaid two Divorce Petitions are more likely to be common. For the convenience of both the parties and the witnesses likely to appear in those two cases, and as agreed upon by both the learned counsel for the parties, this Court is of the opinion that the two cases seeking decree of divorce be tried together in one station.

10. In view of the above and on consideration of the ground raised by the petitioner and not objected to by the opposite party, this Court deems fit to allow the present transfer petition. As a result, the present transfer petition is allowed.

- 11.** Accordingly, the Title Suit(D) 79/2023 (Shri Beki Chetry vs Leena Moni Hazarika) pending before the Court of District Judge,Hojai, is ordered to be transferred to the Court of the Addl. District Judge, Nagaon at Nagaon for further trial and disposal along with the Matrimonial Case No.88/2023.
- 12.** The parties are directed to appear before the transferee Court at the Court of Addl. District Judge Nagaon on 20.1.2025 and thereafter, the Addl. District Judge Nagaon would regulate the hearing.
- 13.** With the above, the transfer petition is allowed and disposed of.

JUDGE

Comparing Assistant