

**HIGH COURT OF TRIPURA
AGARTALA**

Tr.P.(C) No.05/2025

Smti. Sumista Das, W/O. Sri Rajib Namasudra, D/O. Sri Haridas Das, Present
address:- 60 card, P.O.-Surma, P.S.-Gandachara, District-Dhalai, PIN-799284.
..... Petitioner(s).

V E R S U S

Sri Rajib Namasudra, S/O. Sri Fulkishore Namasudra, resident of Harinakhola,
P.O.-Fatikcherra, P.S.-Sidhai Mohanpur, District-West Tripura, PIN-799210.
..... Respondent(s).

For Petitioner(s)	: Mr. Bibek Banerjee, Advocate, Ms. Ruma Majumder, Advocate.
For Respondent(s)	: Mr. Ankan Tilak Paul, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

14/05/2025

Heard Mr. Bibek Banerjee, learned counsel for the petitioner and
Mr. Ankan Tilak Paul, learned counsel for the respondent.

Petitioner-wife seeks transfer of Title Suit (RCR) No.79 of 2024
from the Court of the learned Judge, Family Court, Agartala, West Tripura to
the Court of learned Judge, Family Court, Ambassa, Dhalai, Tripura. The
marriage between the parties was solemnized on 13.03.2021. Thereafter, she
was subjected to physical and mental torture and thrown out of her matrimonial
home in September, 2022. She has given birth to a female child on 20.03.2024.
However, she is residing with her parents in Dhalai District due to physical and
mental torture at her matrimonial home. She has filed a maintenance case under
Section 144 of the BNSS bearing Crl. Misc. No.09/2024 against the respondent
which is pending before the Sub-Divisional Judicial Magistrate, Gandacherra,
Dhalai Tripura. Thereafter, she has received a notice of the matrimonial suit
instituted by the husband for restitution of conjugal rights.

Learned counsel for the petitioner submits that since the two places are separated by considerable distance and she does not have any independent source of income, it would be difficult for her to attend to the matrimonial suit at West Tripura, Agartala as she also has a minor 11 month daughter to maintain. Therefore, she has prayed for transfer of Title Suit (RCR) No.79 of 2024 from the Court of the learned Judge, Family Court, Agartala, West Tripura to the Court of learned Judge, Family Court, Ambassa, Dhalai, Tripura.

Respondent appeared on notice.

Respondent has filed a counter affidavit. The sheet anchor of the respondent's plea is that though he has instituted the suit for Restitution of Conjugal Rights before the learned Family Court, Agartala, West Tripura but he is posted as a Warder in a Jail in Belonia. If the prayer of the petitioner is accepted, the respondent-husband would be put to much more inconvenience than the petitioner by transferring the suit from Agartala to Ambassa as respondent will have to travel from southern part of the State, i.e. Belonia to Agartala and then from Agartala another 75 to 80 Kms. to Ambassa. Since he is a Government Servant, he may also have difficulty in obtaining leave on every date when he is required to present himself before the learned Family Court.

However, on 02.04.2025 when the matter was taken up, the matter was referred for mediation on the request made by learned counsel for the respondent which was acceded to by learned counsel for the petitioner also. Mediation report has been received. As per the report dated 13.05.2025 mediation has failed.

Learned counsel for the petitioner submits that the contention of the respondent that since he is posted as a Warder in a jail in Belonia, therefore, the case may not be transferred from Agartala where it was instituted by him to Ambassa, is not worth acceptance. Petitioner has a minor daughter born on 20.03.2024. The maintenance case instituted by her is also pending before the Sub-Divisional Judicial Magistrate, Gandacherra, Dhalai Tripura which the respondent-husband has to attend in any case. On the other hand, the petitioner may not be able to contest the matrimonial suit pending before learned Family Court, Agartala with a minor daughter to maintain and no independent source of income. Therefore, the suit may be transferred to the learned Family Court, Ambassa.

Learned counsel for the respondent has opposed the prayer. He submits that the balance of convenience of the husband also has to be seen. There is no inflexible rule that always the convenience of the wife has to be seen in such cases. He has referred to a decision of the Apex Court in case of ***Priyanka Singh Gupta vrs. Sachin Gupta [Transfer Petition (Civil) No.15/2019 with T.P. (Crl.) No.4/2019 & T.P. (Crl.) No.3/2019]*** judgment dated 27.04.2022 in support of his submission.

I have considered the submissions of learned counsel for the parties and taken note of the materials placed from record.

Evidently, the respondent-husband has instituted the suit for restitution of conjugal rights before the learned Family Court, Agartala though he is posted as a Warder in a jail in Belonia which the respondent appears to conveniently ignore while opposing the prayer for transfer of the suit from Agartala to Ambassa, Dhalai at the behest of the petitioner-wife. Petitioner-

wife is without any independent source of income and maintains a one year old minor daughter.

It is, therefore, not only the convenience of the petitioner which is at stake. The other relevant factor of the maintenance of a minor daughter by her is also a prevailing reason to seek transfer of the matrimonial suit from the learned Family Court, Agartala to learned Family Court, Ambassa, Dhalai. Both the places are separated by a distance of 75 to 80 Kms. If the suit is not transferred to Ambassa Court, the petitioner may not be in a position to properly contest it. In such circumstances, this Court is inclined to allow the prayer in favour of the petitioner.

As such, let T.S. (RCR) No.79 of 2024 be transferred from the Court of learned Family Judge, Agartala, West Tripura to the Court of learned Family Judge, Ambassa, Dhalai forthwith. Ordered accordingly.

The transfer petition is accordingly disposed of.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

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