

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2403 of 2016

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Bandana Kumari W/o Amar Kumar and D/o Late Madhawanand Sahay
resident of Malti Bhawan, Gardanibagh, Chakbinda, P.O. & P.S. -
Gardanibagh, Town & District - Patna.

.... Petitioner

Versus

Amar Kumar son of Sri Braj Mohan Prasad, resident of Mohalla -
Sarvodaya Nagar, Behind B.P. Inter College, P.O. - Begusarai, P.S. - Town,
District - Begusarai.

.... Opp.Party.

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Appearance :

For the Petitioner/s : Mr. Rajesh Mohan

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 18-05-2017 The petitioner, wife of Opp.Party, has filed the

present petition under Sections 24 and 151 of the Code of Civil

Procedure with a prayer to direct for transferring Matrimonial

(Divorce) Case No.80/2015 from the court of Principal Judge,

Family Court, Begusarai to the court of Principal Judge, Family

Court, Patna.

After filing of the petition, the matter was taken up
on 11.08.2016 and notice was directed to be issued to Opp.Party.
By the said order, further proceeding in Matrimonial (Divorce)
Case No.80/2015 was directed to remain stayed. Despite valid
service of notice, Opp.Party did not appear. Thereafter, again on
27.03.2017, for just decision in the matter, the Court directed for



issuance of fresh notice to Opp.Party. Again despite valid service of notice, Opp.Party has preferred not to appear. Accordingly, the case is preceded *ex parte* against Opp.Party.

It is case of the petitioner that the marriage of the petitioner with Opp.Party was solemnized on 24.02.2012 at Maliti Bhawan, Chakbinda, Gardanibagh in the district of Patna. After the marriage, the petitioner went to her in-laws house and for some time she led peaceful conjugal life, but subsequently she was ill-treated and thereafter she was constrained to leave her in-laws house and started to live with her old mother. It was submitted by learned counsel for the petitioner that since father of the petitioner is no more, her condition is very precarious. In that view of the matter, it has been argued that being a lady it would be difficult for the petitioner to regularly attend the proceeding in Begusarai court from Patna. On the aforesaid ground, a prayer has been made for transferring the record.

Besides hearing learned counsel for the petitioner, I have also perused the materials available on record, particularly the plaint of Matrimonial Divorce Case no.80/2015 filed before the court below by Opp.Party. In paragraph-1 of the plaint, the petitioner has accepted that the marriage of the petitioner with Opp.Party was solemnized on 24.02.2012 in the district of Patna.



Considering the fact that the marriage of the petitioner with Opp.Party was solemnized at Patna as well as the fact as stated that even on the date of filing of the suit before the court below, the petitioner was residing at Patna, in normal course, in view of Section 19 of the Hindu Marriage Act, the suit was required to be filed at Patna. Moreover, considering the fact that the petitioner is a lady, the Court appreciates that being a lady, it would be difficult for the petitioner to regularly attend the proceeding in the court at Begusarai from Patna and, as such, for the ends of justice it is desirable to direct for transferring the record from Begusarai to Patna

The petition is allowed.

Let Matrimonial (Divorce) Case no.80/2015 be transferred from Principal Judge, Family court, Begusarai to the court of Principal Judge, Family Court, Patna forthwith.

(Rakesh Kumar, J)

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