

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.4507 of 2013

IN

Divorce Case No. 43 of 2010

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Mala Devi D/o Gauri Shankar Prasad resident of Mohalla Bara Bazar, Ward No. 5, P.S. Town, District Madhubani

.... Petitioner/s

Versus

Kunal Kishore, Son of Mishrilal Sah resident of Mohalla Juraban Singh, P.S. Town, District -Darbhanga

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Mukul

For the Opposite Party/s : Mr. Sameer Ranjan

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 01-05-2017

1. Heard Sri Vijay Kumar Mukul, learned counsel for the petitioner and Sri Sameer Ranjan, learned counsel, appearing on behalf of the opposite party /husband of the petitioner .

2. The petitioner, has approached this Court under Section 24 (b) of the Code of Civil Procedure, 1908 with a prayer to direct for transferring Divorce Case No. 43 of 2010 from the court of Principal Judge, Family Court, Darbhanga to the court of Principal Judge, Family Court, Madhubani .

3. It was admitted by learned counsel for both the parties that marriage of petitioner with opposite party was solemnized in the year 2007. The petitioner, has claimed that after marriage she was tortured and thereafter, ousted from her in- laws house and thereafter, she came to her parents' house at Madhubani and thereafter, in



Madhubani she filed a complaint case vide Complaint Case No. 1197 of 2008. By way of referring to the statement made in paragraph no. 4 of the petition it has been indicated that in the complaint case cognizance order was passed and thereafter, the opposite party and his family members had already appeared before the court below in the complaint case at Madhubani. Learned counsel for the petitioner submits that petitioner is residing with her minor child at her father's house who is a paralyzed person and petitioner is not financially in a position to regularly attend the proceedings at Darbhanga from Madhubani. It has been emphasized that on the date of filing of the divorce case the petitioner was residing with her parents at Madhubani and as such, in view of Section 19 of the Hindu Marriage Act, 1955 in normal course, the husband/ opposite party was required to file the suit in the court at Madhubani not at Darbhanga.

4. Sri Sameer Ranjan, learned counsel for the opposite party has opposed the prayer. He submits that the husband had initially filed a case under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal life, however, the said suit stood dismissed due to non-prosecution and thereafter, on specific ground of illicit relation of the petitioner with one Pawan Mahto, the husband had filed divorce case at Darbhanga. However, at the time of argument he had not disputed that while the divorce case was filed at Darbhanga



the petitioner was living with her parents at Madhubani.

5. Besides hearing learned counsel for the parties , I have perused the materials available on record. Primarily in view of the fact that petitioner is a lady and is residing with her parents at Madhubani the court appreciates her difficulty in regularly attending the proceedings at Darbhanga. Moreover, keeping in view the fact in this case it has not been disputed that while divorce case was filed the petitioner was living at Madhubani and in view of the facts and circumstances, particularly, for the ends of justice, the court considers this case to be a fit case for issuance of direction for transferring the case. Accordingly, the present petition stands allowed with a direction to transfer the record of Divorce Case No. 43 of 2010 from the court of Principal Judge, Family Court, Darbhanga to the court of Principal Judge, Family Court, Madhubani forthwith.

6. It is made clear that after receipt of the record at Madhubani, the petitioner shall render full co-operation for early disposal of the case.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	N/A
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