

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1968 of 2015

IN

Matrimonial Reference No. 181 of 2012

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Milan Jha @ Meelan Devi @ Meelan Jha, wife of Awadhesh Kumar Jha, daughter of Krishna Kumar Jha, resident of village- Kukraon, P.S. Dhamdaha, District- Purnea, presently resident of village- Khajuraha, P.S. Sonbarsa Raj, District- Saharsa

.... Petitioner

Versus

Awadhesh Kumar Jha S/o Late Nishikant Jha, resident of village- Kukraon, P.S. Dhamdaha, District- Purnea, at present resident of Mohalla- Shivdham Madhubani, P.S.- K. Hat, District- Purnea

.... Opposite Party

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Appearance:

For the Petitioner : Mr. Amarnath Jha, Advocate

For the Opp. Party : Mr. Bipin Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-06-2017

Heard learned counsel for the petitioner and learned counsel for the opposite party.

2. The present petition has been filed for transfer of Matrimonial Suit No. 181 of 2012 filed by the opposite party before the Court of learned Principal Judge, Family Court, Purnea to the Court of learned Principal Judge, Family Court, Saharsa.

3. The short facts of the case according to the petitioner are that the opposite party has filed Divorce Case vide Matrimonial Suit No. 181 of 2012 before the Family Court, Purnea which is pending. Prior to the same, the petitioner had filed C.A. No. 1714 of 2010 alleging cruelty and torture in terms of Domestic Violence Act, 2005 (for short "the Act") which was disposed of on 22.11.2010 by the learned Judicial Magistrate Ist Class, Purnea, *inter alia*, granting protection and passing



orders for payment of maintenance of Rs. 3,000/- per month in favour of the petitioner together with residential accommodation under Section 19 of the Act.

4. Learned counsel for the petitioner submits that the petitioner is a helpless lady having no independent source of income and is living at her '*maika*' at Saharsa which is situated at a distance of more than 100 kilometres from Purnea and is thus unable to go to Purnea to contest the Matrimonial Suit.

5. Learned counsel for the opposite party appears and relies on the counter affidavit to submit that the petitioner has been paying Rs. 3000/- per month in compliance of the order passed in C.A. No. 1714 of 2010 for the petitioner's maintenance and expenses. It is further submitted that the mother of opposite party, Sarda Devi is an aged lady of over 77 years suffering from heart ailments, for which her treatment is going on at Heart Care Centre, Line Bazar, Purnea and there is nobody other than the opposite party to look after her. It is therefore submitted that transfer of the Matrimonial Case as sought by the petitioner would entail far greater difficulty on his part.

6. Having heard learned counsel for the parties and on consideration of the materials on record, this Court does not find merit in the petition. Except making a bald statement that the petitioner is a helpless lady, no concrete reasons or circumstances have been shown why she cannot contest the case at Purnea. The stand of the opposite party with regard to payment of Rs. 3000/- per month pursuant to the order in the Domestic Violence case as well as that the opposite party has to look after his ailing mother who is of advanced age, has not been disputed as no rejoinder has been filed on behalf of the petitioner. Order in the Domestic Violence case clearly provides for protection to the petitioner also by way of providing proper residential accommodation for the petitioner which she can avail of. The opposite party expresses that he is committed to obey the order of the Court in



the Domestic Violence case. No rejoinder has been filed despite sufficient opportunities for the purpose having been granted by this Court by orders dated 03.04.2017, 02.05.2017 and 19.06.2017.

7. I am therefore of the view, that no reasonable ground has been made out on behalf of the petitioner for transfer of Matrimonial Suit No. 181 of 2012 from the Court of learned Principal Judge, Family Court, Purnea to the Court of learned Principal Judge, Family Court, Saharsa, and as such I am not inclined to interfere in the matter.

8. The petition stands dismissed.

(Vikash Jain, J)

Chandran /BT

AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	N.A.

