

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3398 of 2015
In
Matrimonial Ref. No.141 of 2015

Kalpana Devi, wife of Sri Chidanand Prasad Singh & Daughter of Kirpa Shankar Mishra, resident of Village- Pator, P.S.- Rameshwarnagar, District-Darbhangha
.....Respondent/ Petitioner

Versus

Chidanand Prasad Singh, Son of Raj Karan Prasad Singh, resident of Village-Marpa Sirpal (Basbita), P.S.- Mejarganj, District-Sitamarhi..... Plaintiff/Opposite Party

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Pravin Kumar, Advocate
Mr. Nilesh Kumar, Advocate
mr. Shashank Shekhar, Advocate
For the Respondent/s : Mr. Dinesh Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 18-08-2018 Heard learned counsel for the petitioner and learned counsel representing the opposite party.

The petitioner is the wife who is contesting the suit for restitution of conjugal rights brought by her husband vide Matrimonial Case no. 141 of 2015 presently pending in the court of learned Principal Judge, Family court, Sitamarhi. The grounds on which the transfer of the Matrimonial Suit have been sought are: (i) that the petitioner is an unemployed lady and (ii) that she has no family member to accompany her to the court at Sitamarhi on the dates fixed in the matter. Learned counsel representing the opposite party submits that this Court may well appreciate that the opposite party is seeking restitution of



conjugal rights, he is also unemployed whereas this petitioner is literate and is moving for the purpose of employment and she is participating in interview etc. He also pointed out that the petitioner has got brother and parents and if the matrimonial suit is transferred, the opposite party apprehends threat to his life in the hand of brothers of the petitioner. The opposite party has pointed out from the certified copy of the ordersheets of the court below that in fact, the petitioner had participated in suit by filing written statement and then she had also participated in the part cross-examination of the witness produced by the opposite party. The submission is that the trial has begun and is likely to be concluded within a few months if not otherwise interfered with, the opposite party is even ready to bear the travelling expenses of the petitioner in order to enable her to attend the court proceeding. Submission is that the opposite party is willing to accept the petitioner as his wife and reside together.

Having heard learned counsel for the parties and on perusal of the record, this Court finds that both parties in this case are claiming that they are unemployed. It is not in dispute that the petitioner is a literate woman and in her family she has got brother and parents. The distance between Darbhanga to Sitamarhi is said to be about 60 kilometer. Learned counsel for



the opposite party has offered to pay the travelling expenses to the petitioner in order to enable her to attend the court on the date fixed in this case. The case already is at final stage when the evidence have already begun.

In these circumstances, this Court is not willing to transfer the Matrimonial Suit from Sitamarhi to Darbhanga. The suit shall proceed at Sitamarhi without any adjournment, to be allowed to either parties, unless some exceptional reason are shown to the satisfaction of the court. The opposite party shall pay a sum of Rs. 500/- to the petitioner on each date fixed in the matter on which she is required to be present with a witness. This amount has been fixed taking into account the statement at Bar that the train fare between Darbhanga to Sitamarhi is hardly Rs. 20/-. The amount has been fixed keeping in mind the over all expenses which may be required to be spent on travelling of witnesses and foodings etc.

The parties seeking adjournment in the Matrimonial Suit shall be liable to pay the cost to the other side as may be ordered by the court below. The court below shall ensure the payment to the petitioner on the date fixed in the matter and the same be entered in the record.

The interim order shall stand vacated. This application



stands disposed of with the aforesaid direction.

(Rajeev Ranjan Prasad, J)

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