

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3526 of 2014

In

Matrimonial Reference No. 280 of 2011

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1. Rajani Devi @ Guria Wife of : Rama Shankar Prasad and Daughter of Vijay Shankar Prasad Resident of Village & P.S: Pakri Dayal , District-East Champaran.

2. Vijay Shankar Prasad S/o late Ram Khelawan Sah R/o Vill+P.O+P.S.- Pakridayal, District- East Champaran.

.... Petitioner/s

Versus

1. Rama Shankar Prasad, Son of Dharm Nath Prasad, Resident of Mohall: Chawal Bazar, P.S. Raxaul, District: East Champaran , at Present R/o Amla Plaza Kankarbagh, Main Road, Mohalla+P.S.- Kankarbag Town, District-Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinod Gautam, Adv.

For the Respondent/s : Mr. Nawal Kishore Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 10-09-2018

Heard learned counsel for the parties.

This application has been preferred for transferring the Matrimonial Case No. 280 of 2011 from the Court of learned Principal Judge, Family Court, Patna, to the Court of learned Principal Judge, Family Court, East Champaran at Motihari.

Learned counsel for the petitioner submits that the husband of this petitioner is residing at Patna, he had brought Matrimonial Case No. 280 of 2011 in the Court of learned Principal Judge, Family Court, Patna, which was heard ex-parte and a decree of divorce has been granted to the husband (Opposite



Party) against the petitioner. The petitioner being a lady, having about a four years old child with her, is presently residing in her Maiké in the village- Pakridayal in the District of East Champaran. She has no independent source of income and presently even the Opposite Party is not paying any maintenance to her. In these circumstances, when she filed Miscellaneous Case bearing No. 16 of 2012 for setting aside the ex-parte decree, she finds it not possible to pursue the case at Patna for the aforesaid reasons.

Learned counsel submits that the distance between the two place from one side is about 200 K.M, the petitioner has no other family member to accompany her from this long distance and given the fact that she has a four years child and has no source of income, if the records of the Misc. Case No. 16 of 2012 arising out of Matrimonial Case No. 280 of 2011 and the records of Matrimonial Case are not transferred to the Court at East Champarn, she is not likely to get justice.

On the other hand, learned counsel representing the husband (Opposite Party) submits that the petitioner has filed a Miscellaneous Case at Patna in the year 2012 and now the case is fixed for evidence, therefore, it is not required to be transferred.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that the statement of the



petitioner that she is presently residing at a distance of 200 K.M. from one side, she has a child aged about 4 years to whom she has to take care and that presently she is not getting any maintenance particularly after the ex-parte judgment of decree and judgment of divorce against her remained uncontroverted. The Miscellaneous Case has been brought by the petitioner for setting aside the ex-parte judgment and decree and she is presently not in a position to pursue the same at Patna for the circumstances shown to this Court.

This Court is satisfied that in the facts and circumstances pleaded by the petitioner, it would be in the interest of justice to transfer the records of the Misc. Case No. 16 of 2012 along with the records of Matrimonial Case No. 280 of 2011 from the Court of learned Principal Judge, Family Court, Patna, to the Court of learned Principal Judge, Family Court, East Champaran at Motihari. Let the records be transferred, accordingly, within a period of 15 days from the date of receipt/production of a copy of this order.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

R.R.Ojha.

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