

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.875 of 2018

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Babita Chaudhary, daughter of Jalim Chaudhary, wife of Dipak Kumar,
resident of Shivpur Tikiya Toli, P.S. – Sultanganj, P.O. Mahendru, District
– Patna.

.... Petitioner

Versus

Dipak Kumar, son of Late Jangli Ram Bahailiya, resident of Thakur
Kumhar Gali, Chamoliya Inar, P.S. Dumraon, District – Buxar.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Anuj Dilbar Krishna

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4. 19-11-2018

Heard learned counsel for the parties.

This application has been preferred seeking transfer of Divorce Case No. 289/2017 from the court of learned Principal Judge, Family Court, Buxar to the court of learned Principal Judge, Family Court, Patna.

Learned counsel for the petitioner submits that divorce case has been brought by opposite party at Buxar whereas the petitioner is presently living at Patna after she was deserted by her husband and she having no independent source of income is totally dependent upon her father. It is further stated that she has got two children out of the wedlock with the opposite party, and presently she is living with her parents at Patna with the two children and her parents are looking after the day to day requirement of petitioner as well as her both children out of the meager income which the family has. She has further stated that she cannot take a travel from Patna to Buxar to pursue this case being a lonely lady and as such in these circumstances the records of the aforesaid Divorce Case be



transferred to the court of learned Principal Judge, Family Court, Patna.

It is also stated that the petitioner has filed a complaint case and a domestic violence case at Patna which are going on and the opposite party has no difficulty to attend this case along with the other cases.

On the other hand, learned counsel representing the opposite party has opposed the submissions of learned counsel for the petitioner. It is submitted that earlier the opposite party had filed an application under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights in which a compromise had taken place with the petitioner, the petitioner thereafter went to reside with the opposite party at Buxar but again she left the matrimonial home. The opposite party has further submitted that he is willing to keep the petitioner with himself, in these circumstances, it is submitted that the case is not required to be transferred.

Having heard learned counsel for the parties and on perusal of the records, this court finds that in the given circumstances where the petitioner is said to be living with her two children at her parents house at Patna and is dependent upon her father for her day to day expenses and that there is nobody in the family to accompany her in traveling from Patna to Buxar on the dates fixed in the matter in order to contest the case, it would only be just and proper to take care of her convenience and to give her an opportunity to defend the case effectively, and in order to do so, this court would be



willing to transfer the Matrimonial Case from the court of learned Principal Judge, Family Court, Buxar to the court of learned Principal Judge, Family Court, Patna.

This application is, therefore, allowed.

Let the record of Divorce Case no. 289/2017 be sent to the court of learned Principal Judge, Family Court, Patna within a period of 15 days from the date of receipt/production of a copy of this order.

It is expected that with the cooperation of both the parties the matrimonial case shall be disposed of within a reasonable time.

(Rajeev Ranjan Prasad, J)

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