

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2563 of 2017

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Arti Devi D/o late Ganesh Mahto, R/o Shiva Ji Nagar, Bishnupur, Ward No. 40 , P.S.- Town, Dist.- Begusarai.

... .. Petitioner

Versus

Sarvan Rai S/o Late Surya Narayan Rai, Resident of Village- Mirchaye Bari Chawak, P.S. Nagar, Dist.- Katihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner : Mr. Shubhesh Pandey, Advocate.

For the Opposite Party: Mr. Rama Nand Poddar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 22-04-2019

The present petition has been filed for transfer of the Matrimonial Case No. 12 of 2017 from the Court of learned Principal Judge Family court, Katihar to the Court of learned Principal Judge, Family court, Begusarai.

2. It is submitted that the petitioner, who is a lady, would have to face considerable difficulty and harassment in attending the matrimonial case filed by the opposite party for restitution of conjugal rights at Katihar. It is submitted that the petitioner has no independent source of income and is dependent on the agricultural income of her father's family. After her father's death it is becoming difficult for the family to make ends meet. It is further stated that the petitioner has filed a complaint case bearing no. 2100 of 2012 as well as Maintenance Case No. 71 of 2016, both at Begusarai, which the opposite party would be required to attend. It is



therefore submitted that the matrimonial case filed by the opposite party be transferred from Katihar to Begusarai.

3. Learned counsel for the opposite party appears and opposes the prayer of the petitioner. It is stated that the petitioner has left the matrimonial home leaving the two children with the opposite party whom he is raising without any help from his wife. The opposite party has recently suffered an accident by reason of which steel plate had to be inserted in his leg and he has considerable difficulty in movement. As such he would find it very difficulty to travel to Begusarai situated at the distance of about 180 Km. from Katihar. The opposite party has also to look after his old mother of about 80 years of age who is also suffering from various ailments. It is further stated that Maintenance Case No. 71 of 2016 filed by the petitioner at Begusarai has since been disposed of in terms of compromise between the parties whereby the petitioner had agreed to live together. Moreover, the opposite party expresses his readiness to pay the reasonable expenses to the petitioner to attend the matrimonial case at Katihar.

4. Having heard the parties and on consideration of the materials on record, this Court is of the view that the balance of convenience lies in favour of the opposite party who is single handedly raising his two children, looking after his aged mother and is suffering from leg injury which has restricted his free movement.



5. In the above circumstances, this Court is not inclined to direct transfer of Matrimonial Case No. 12 of 2017 from Katihar to Begusarai as sought by the petitioner. It is however directed that the opposite party shall pay second class train fare to and fro Katihar along with Rs. 500/- towards miscellaneous expenses for each date when the petitioner is required to personally attend the Court at Katihar. The learned Court below shall ensure payment of the aforesaid amount to the petitioner.

6. The petition stands disposed of with the aforesaid observation.

(Vikash Jain, J)

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