GAHC010136492019

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Tr.P.(C)./47/2019

BANASRI PARASAR
D/O- LT LALIT SARMA, R/O- BRAHMASARI SATRA, NEAR SHIV TEMPLE, P.O. BHELOGURI, P.S. SAMAGURI, DIST- NAGAON, PIN- 782140, ASSAM

VERSUS

SOURAV JYOTI MISHRA
S/O- LT SADANANDA MISHRA, PERMANENT R/O- PANIGAON CHARIALI, RATNAPUR ROAD, P.O. NAGAON, P.S. NAGAON, DIST- NAGAON, PIN- 782001, PRESENTLY RESIDING AT H.NO. 19, HARI MANDIR PATH, NEAR DOWN TOWN HOSPITAL, DISPUR, GHY, P.O. DISPUR, DIST- KAMRUP (M), ASSAM, PIN- 781006

Advocate for the Petitioner : MR A D CHOUDHURY

Advocate for the Respondent :

BEFORE
HONOURABLE MR JUSTICE SONGKHUPCHUNG SERTO

ORDER

Date : 01-12-2020

Heard Mr. T. Chakraborty, learned counsel for the petitioner.

This is an application for transfer of the Family Court (Civil) Case No. 520 of 2019

pending before the Principal Judge, Family Court (M), Guwahati to the court of District Judge at Nagaon. None has appeared on behalf of the respondent. On 15.06.2019 this Court has noted that notice is deemed to be completed since the respondent refused to accept notice through Dasti Service.

It is submitted by the learned counsel for the petitioner that the petitioner and the respondent got married on 14.12.2017 at Nagaon according to Hindu religious rites and customs and lived together there in the residence of the respondent. However, the respondent neglected the petitioner and did not come to meet her regularly. While she was still suffering from the neglect the respondent filed the divorce case being F.C.(Civil) No. 520/2019 in the Court of Principal Judge, Family Court, Kamrup (M), Guwahait. It is further submitted by the learned counsel that since the marriage was solemnised at Nagaon and the parties are residents of Nagaon, the Court which has jurisdiction to try the case is the court of the District Judge, Nagaon as per Section 19 of the Hindu Marriage Act. The learned counsel also submitted that the petitioner being a woman and having a meagre income from her job of teaching in a private school it would be very difficult for her to contest the case at Guwahati. Therefore, the F.C.(Civil) Case No. 520/2019 may be transferred from the Court of Principal Judge, Family Court, Kamrup (M) to the Court of District Judge, Nagaon as per Section 19 of the Hindu Marriage Act.

From the submissions of the learned counsel for the petitioner it appears that both the petitioner and the respondent are permanent residents of Nagaon and their marriage as per the Hindu rites and customs was solemnised at Nagaon. Therefore as per Section 19 of the Hindu Marriage Act the Court which has the jurisdiction to try the case would be the court of District Judge, Nagaon. Moreover, the petitioner being a weaker sex and having meagre income from her job as a teacher in a private school would naturally be in difficulty if she has to contest the case at Guwahati. Therefore, this Court is of the opinion that the case should be transferred to the court of District Judge, Nagaon from the court of Family Court, Kamrup (M), Guwahati. Accordingly, prayer of the petitioner is allowed and the learned Principal Judge, Family Court, Kamrup is directed to transfer the case to the Court of District Judge, Nagaon within 15 days from the date of receipt of the certified copy of this order and, the learned District Judge, Nagaon is directed to trial the case as soon as records are received.

The transfer petition is disposed of accordingly.

JUDGE

Comparing Assistant