

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1161 of 2022

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Arpana W/o Amit Gaurav, Resident of L.N.M.U Campus, Kameshwar Nagar
P.S- Lalbagh, Darbhanga Bihar- 846004

... .. Petitioner/s

Versus

Amit Gaurav Son of Ashok Kumar Singh, Resident of S.S.A. P.F. Building,
13 Raja Ram Mohan Roy Road, Richmond Circle, Woodland Hotel,
Bangluru- 560029

... .. Opposite Party/s

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Appearance :

For the Petitioner : Mr.Arya Achint, Advocate
For the Opposite Parties : Mr.Vijay Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 10-11-2022 Heard the parties.

Learned counsel for the opposite party at the very outset has submitted that the petitioner had earlier filed a transfer application vide MJC No. 1408 of 2018 which stood dismissed on 22.04.2019 and therefore, the present application is not maintainable.

Learned counsel for the petitioner has submitted that the order dated 22.04.2019 was passed on the premise that the petitioner has not filed any maintenance case and therefore, she is not short of funds.

Learned counsel for the petitioner further submits that this order was passed without considering the fact that the maintenance case was filed and is pending before Principal Judge Family Court, Darbhanga. It was filed on 22.03.2018 and this fact could not be pointed out by the lawyer appearing for



the petitioner earlier.

It seems that learned counsel for the opposite party did not inform the Court about the pendency of maintenance case before the Principal Judge Family Court, Darbhanga since 2018 and it is surprising as to why the same has not been disposed of till date.

The Principal Judge Family Court, Darbhanga will file show cause as to why the maintenance case has not yet been disposed of. This Court directs the Principal Judge Family Court, Darbhanga to dispose of the maintenance case by holding day-to-day hearing within a week from the date of receipt/production of a copy of this order.

The petitioner has to contest litigation unnecessarily which is being lingered on account of dilatory tactics adopted by the husband- opposite party.

In these circumstances the opposite party is also directed to pay litigation cost of Rs. 50,000/- (Rupees Fifty Thousand) to the petitioner when the matter is transferred to the Principal Judge, Family Court, Darbhanga.

If the opposite party (husband) does not cooperate in the disposal of the maintenance case then the Principal Judge Family Court, Darbhanga will proceed ex parte in the matter.



Learned counsel for the petitioner submits that the opposite party is an employee as “EPF Auditor” and his salary is around Rs. 80,000/- (Rupees Eighty Thousand). The Principal Judge Family Court, Darbhanga will decide the Maintenance Case in accordance with law laid down by the Supreme Court in the case of ***Rajnish Vs. Neha & Ors. [(2021) 2 SCC 324]***.

Both the parties will file their counter in view of the judgment of the Supreme Court in the case of ***Rajnish Vs. Neha & Ors. [(2021) 2 SCC 324]***.

The Principal Judge Family Court, Darbhanga will file a compliance report to this Court about disposal of the maintenance case.

The petitioner, who is the wife of the opposite party, namely, Amit Gaurav S/o Ashok Kr. Singh, has filed this application for transfer of Matrimonial Divorce Case No. 01 of 2018 from the Principal Judge, Family Court, Lakhisarai to the Principal Judge, Family Court, Darbhanga.

The petitioner is facing a lot of hardship in travelling from Darbhanga to Lakhisarai as she is financially unsecured because she has received only Rs. 3,000/- as maintenance and is not able to carry herself along with her five-year old child all



alone to a completely unknown place and the opposite party had an intention to torture the petitioner mentally and physically and had also threatened the petitioner in the court premises.

Considering the facts of the case, Matrimonial Divorce Case No. 01 of 2018 is directed to be transferred from the Principal Judge Family Court, Lakhisarai to the Principal Judge, Family Court, Darbhanga.

The parties shall appear in the court of the Principal Judge, Family Court, Darbhanga on 12th December, 2022 and thereafter the proceeding will be conducted in the court of the Principal Judge, Family Court, Darbhanga. The Principal Judge, Family Court, Darbhanga is directed to dispose of Matrimonial Divorce Case No. 01 of 2018 within three months from today.

With the aforesaid observation and direction, this application is allowed.

Let a copy of this judgment be communicated to the Principal Judge, Family Court, Lakhisarai as well as the Principal Judge, Family Court, Darbhanga for its compliance forthwith.

(Sandeep Kumar, J)

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