

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.274 of 2021

=====

Khushbu Devi Wife of Parshuram Prasad, daughter of Shiv Narayan Prasad, resident of Village - Galla Mandi Mirganj, Police Station- Mirganj, District - Gopalganj, at present resident of Village - Chanpatia Machhali Hatta Ward no. 07, Police Station- Chanpatia, District - West Champaran.

... .. Petitioner/s

Versus

Parshuram Prasad Son of Late Hiralal Prasad, resident of Village- Galla Mandi Mirganj, Police Station- Mirganj, District - Gopalganj.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Sachida Nand Rai

For the Opposite Party/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL JUDGMENT

Date : 19-07-2022

Notice has been received by one Raj Kumar, full brother of the husband (sole opposite party).

It has been submitted by the learned counsel for the petitioner that they are staying jointly in the same house and therefore, the service of notice be accepted. The notice is validly served.

Despite service of notice, no one appears for the sole opposite party.

This application is being filed for transfer of the case bearing M.M. Case No. 280 of 2019 from the court of the learned Principal Judge, Family Court, Gopalganj to the Court of learned Principal Judge, Family Court, Bettiah, where the present petitioner has filed Maintenance Case No. 193M of



2019 which is pending for its adjudication before the court of the learned Principal Judge, Family Court, Bettiah, District-West Champaran.

The opposite party stated that his marriage was solemnized with petitioner (Khushbu Devi) on 16.11.2016, and they were leading a happy life for sometime. Further, the opposite party stated that his wife was instigated by her parents and brother as well as Sanjay Kumar (brother-in-law) of his wife and sister (Anushka Kumari) against his mother and brother and thereafter, his wife started putting pressure for getting separated from them and for that she started torturing to the opposite party. The opposite party alleged that on 24.02.2017 his wife with her brother Abhishek Roniyar left the matrimonial house with her belongings and while he had gone to take her back at matrimonial house on 23.10.2017, she denied to come and then on 20.11.2017, opposite party filed a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights, then she came to her matrimonial house and in result on 25.07.2018, opposite party withdraw the case filed under Section 9 of the Hindu Marriage Act.

The petitioner wants to contest the case bearing M.M. Case No. 280 of 2019, which is pending before the Court of the



learned Principal Judge, Family Court, Gopalganj, which is near about 60 K.M. away and it is not possible for her to go and attend the Court on each and every date for making sufficient pairavi in the case. Petitioner has no source of income and she is not getting maintenance cost from the opposite party.

The petitioner has relied on a recent judgment of the Supreme Court in the case of NCV Aishwarya vs AS Saravana Karthik Sha of the Apex Court.

Considering the difficulty being faced by the petitioner in travelling to Gopalganj and she is unable to travel to Gopalganj to contest the case, this application for transfer is allowed. M.M. Case No. 280 of 2019 pending in the court of the Principal Judge, Family Court, Gopalganj is directed to be transferred to the court of Principal Judge, Family Court, Bettiah. The parties shall appear in the court of the Principal Judge, Family Court, Bettiah and thereafter the proceeding will be conducted in the court of the Principal Judge, Family Court, Bettiah. Since the opposite party has knowledge about Maintenance Case No.193M of 2019, he is required to appear and do necessary pairvi in the case. The Principal Judge, Family Court, Bettiah is directed to dispose of Maintenance Case No. 193M of 2019 within three months. If the opposite party does



not cooperate in disposal of the aforesaid Maintenance case, the Principal Judge, Family Court, Bettiah will proceed ex parte.

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

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

(Sandeep Kumar, J)

Shishir/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01/08/2022
Transmission Date	N/A

