

IN THE HIGH COURT OF ORISSA AT CUTTACK
TRP (C) No.42 of 2022

Nikita Bhukta

....

Petitioner

Mr.A.K.Sahoo, Advocate

Versus

Ashok Kumar Kesari

....

Opp. Party

CORAM:
JUSTICE SAVITRI RATHO

ORDER
06.07.2022

Order No.

05.

This matter is taken up by hybrid mode.

2. This application has been filed by the petitioner-wife under Section 24 of C.P.C. for transfer of C.P. Case No.1167 of 2021 filed by the opp. party-husband under Section- 12 of the Hindu Marriage Act, 1955 for declaration of the marriage as nullity in the Court of learned Judge, Family Court, Bhubaneswar, to the Court of learned Judge, Family Court, Deogarh.

3. Initially, notice had been sent to his present address in Bhubaneswar, but since the said notice was returned un-served with the endorsement that no such addressee was found, notice was sent by Speed Post at his permanent address given in the cause title of the C.P. application, namely, village: Puruna Sahi, Podagarh, P.S. Rengali Dam Site, Dist: Angul. As the A.D. was not received, postal tracking report was downloaded, from which it appears that notice had been delivered on Shri Ashok Kumar Kesari on 14.05.2022 through Podagarh Branch post office.

4. No counsel has filed Vakalatnama on his behalf nor did the opp. party or any counsel on his behalf appeared in the case on the last

date, i.e., 29.06.2022, for which the case was adjourned to 06.07.2022 with direction to the registry to ascertain if any counsel had appeared on behalf of the opp party. After verification the dealing assistant has confirmed that no counsel has appeared. Hence the case is taken up in the absence of the opp party.

5. Learned counsel for the petitioner submits that the marriage between the parties has been solemnized in the year 2020 and due to ill-treatment and torture by the opp. party and his family members, the petitioner had to return to her father's house and is presently staying with her father in Deogarh and is dependent on him, as she has no independent source of income. He further submits that the distance between Bhubaneswar to Deogarh is more than 300 K.Ms and the father of the petitioner works as a labourer in Deogarh, for which it would be very difficult on his part to leave his work and accompany the petitioner to Bhubaneswar to attend the case on each and every date the case is posted to. He refers to the identity card of Shri Hemanta Bhokta, father of the petitioner filed as Annexure-2 in support of his submission.

6. Considering the submission of the learned counsel for the petitioner and keeping in mind the settled position of law that convenience of the wife is normally given more weightage while deciding an application for transfer of a matrimonial case, the prayer for transfer is allowed. C.P. Case No.1167 of 2021 shall be transferred from the Court of learned Judge, Family Court, Bhubaneswar to the Court of learned Judge, Family Court, Deogarh.

7. The learned Judge , Family Court Bhubaneswar ,is requested to send the record of C.P.No.1167 of 2021 to the Court of learned

Judge, Family Court Deogarh by 25.07.2022. The parties are directed to appear in the Court of the learned Judge, Family Court, Deogarh on 03.08.2022. In case the opp. party does not appear on 03.08.2022, the learned Judge, Family Court, Deogarh is directed to issue notice to the opp. Party for his appearance. The petitioner is directed to file requisites by 20.07.2022 for communication of this order to opp. party through Registered/Speed Post with A.D.

8. The TRP (C) is accordingly disposed of.

9. Urgent certified copy of this order be granted as per rules.

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