

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 67 of 2022

Mamatamani Singh

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Petitioner

Mr. A.K. Biswal, Advocate.

Vs.

Budhram Singh

.....

Opposite Party

Mr. M.R. Patra , Advocate

CORAM:

JUSTICE SAVITRI RATHO

ORDER

26.08.2022

Order No.

06.

This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Biswal, learned counsel for the petitioner and Mr. M. R. Patra , learned counsel for the Opp.Party .

3. This application under Section 24 of the C.P.C. has been filed by the petitioner-wife praying for transfer of C.P. No.215 of 2021 filed by the opposite party - husband under Section 9 of the Hindu Marriage Act, in the Court of the learned Judge, Family Court, Baripada, Mayurbhanj to the Court of the learned Civil Judge (Sr. Division), Udala.

4. Mr. Biswal, learned counsel for the petitioner submits that marriage of the petitioner and opp. party has been solemnized on 19.05.2019 as per Hindu Rites and Customs. He further submits that the petitioner has filed C.M.C. No.61 of

2021 under Section 125 of Cr.P.C for maintenance before the S.D.J.M., Udala as well as a petition under Section 12 of the D.V. Act before the Court of the learned S.D.J.M., Udala in C.M.C. No. 69 of 2021 and in both the cases the opposite party- husband has entered appearance and has taken time to file show cause reply / objection . So it will not be inconvenient for him if the C.P.No 215 of 2021 is transferred to Udala . He further submits that although the distance between parental house and Baripada is about 52 kms and as the opposite party has threatened her with dire consequences she is apprehensive to attend the case at Baripada . If the civil proceeding is transferred to Udala , it will be convenient for her to contest the case .

5. Mr. M.R. Patra learned counsel appearing on behalf of the opposite party submits that the distance between Udala and Baripada is not much and the petitioner can easily come to Baripada and return in the same day . He also submits that the allegation regarding threat to her life is false and has been raised by the petitioner only for the purpose of getting the case transferred . He further submits that the opposite party will be put to inconvenience and hardship and expenses as he will have

to go to Udala on different dates in the three cases . But he does not dispute about filing of the cases under Section 125 Cr.P.C and under Section 12 of the P.W. D .V. Act at Udala .

6. In view of the nature of the proceeding under Section-9 of the Hindu Marriage Act, instead of transferring the proceedings , directions are usually issued regarding mode of filing of objection and dispensing with personal appearance filing of the wife . But in the present case as it is not disputed stated that C.M.C. No.61 of 2021 in the Court of the learned S.D.J.M., Udala filed under Section 125 of Cr.P.C. and C.M.C. No. 69 of 2021 in the Court of the learned S.D.J.M., Udala filed under Section 12 of the P.W.D.V. Act by the petitioner-wife are pending where pursuant to issue of notice, the opposite party-husband has appeared , it would be expedient in the interest of justice to transfer C.P. No.215 of 2021 pending in the Court of the learned Judge, Family Court, Baripada, Mayurbhanj, to the Court of the learned Civil Judge (Senior Division), Udala . But keeping in mind the fact that the opposite party will definitely face some inconvenience and hardship as he has to come to Udala in three cases , in case of prayer of the opposite – party , the learned Civil Judge (Senior Division) , Udala is directed to

post the case on the dates on which the other two cases in the court of the learned SDJM Udala are posted to . Liberty is also given to the opposite party – husband to make similar prayer before the learned SDJM, Udala in C.M.C. No.61 of 2021 and C.M.C No. 69 of 2021 .

7. The learned Judge, Family Court, Baripada, Mayurbhanj is requested to send the record of C.P. No.215 of 2021 to the Court of learned Civil Judge (Senior Division), Udala by 16.09.2022. The parties are directed to appear in the Court of the learned Civil Judge (Sr. Division), Udala on 30.09.2022 and cooperate for early disposal of the case . The learned Civil Judge (Senior Division) , Udala is also requested to dispose of the case expeditiously .

8. The TRP (C) is disposed of with the aforesaid observations .

9. Issue urgent certified copy as per rules.

10. Registry is directed a send a copy of this order to the Court of learned Judge, Family Court, Baripada, Mayurbhanj forthwith for compliance.

Sukanta

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(SAVITRI RATHO)
JUDGE