

IN THE HIGH COURT OF ORISSA AT CUTTACK
TRP (C) No.107 of 2022

<i>Jagyaseni Das</i>		<i>Petitioner</i>
		<i>Ms. B. Panda, Advocate</i>
	<i>Versus</i>	
<i>Bibekananda Das</i>		<i>Opp. Party</i>

CORAM:
JUSTICE SAVITRI RATHO

<u>Order No.</u>	<u>ORDER</u> 28.07.2022
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03. 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. No. 36 of 2022 filed by the opp. party-husband under Section-9 of the Hindu Marriage Act pending in the Court of learned Judge, Family Court, Jagatsinghpur, to the Court of learned Judge, Family Court, Cuttack.

3. Ms. B. Panda, learned counsel for the petitioner submits that the marriage between the parties had been solemnized on 06.03.2018 and on 26.11.2017 and out of their wedlock a male child, namely, Smrutiranjana Das was born, who is staying with the petitioner at Cuttack and due to the wayward life style of opposite party, the petitioner was compelled to leave his house along with her minor son and she has filed C.P. No. 136 of 2022 in the court of learned Judge, Family Court, Cuttack under Section 13 (1) (a) of the Hindu Marriage Act for dissolution of marriage by a decree of divorce where notice had been issued to the opposite party and she has filed CRLMC No. 37 of 2022 under Section 12 of the Domestic Violence Act in the Court of the learned S.D.J.M., Cuttack, where notice had been issued to the opposite party and he has appeared in the said case. She has filed Criminal Proceeding No.17 of 2022 in the

Court of the learned Judge, Family Court, Cuttack. She further submits that as the petitioner is staying with her minor son at Cuttack with her widow mother and brother in Cuttack and she is entirely dependent on them for her maintenance as she has no independent source of income, it is difficult for her to go to Jagatsinghpur to contest the case there. As three cases are pending at Cuttack in which the opposite party has appeared or will appear, it will not be inconvenient for him if C.P. No. 36 of 2022 is transferred to the Court of learned Judge, Family Court, Cuttack.

4. Considering the above submission regarding the inconvenience which will be faced by the petitioner who has a minor son to look after, and that three cases are already pending in Cuttack in which the Opposite Party has already appeared or will appear and it is the settled position of law that the convenience of the wife is of paramount consideration in matrimonial cases and as C.P. No. 136 of 2022 filed under Section 13(1)(a) of the Hindu Marriage Act is pending at Cuttack, it would be in the interest of justice if the two Civil Proceedings are heard by the same Court. So, the prayer for transfer of C.P. No 36 of 2022 is allowed.

5. The learned Judge, Family Court, Jagatsinghpur is requested to send the record of C.P. No. 36 of 2022 to the Court of learned Judge, Family Court, Cuttack by 05.08.2022. The parties are directed to appear in the Court of the learned Judge, Family Court, Cuttack on 22.08.2022. In case the opp. party does not appear on 22.08.2022, the learned Judge, Family Court, Cuttack is directed to issue notice to the opp. party for his appearance. Both the parties shall cooperate for early disposal of the case. It is open to the petitioner to file an application before the learned

Judge, Family Court, Cuttack for analogous hearing of the two Civil Proceedings,

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

7. As the TRP (C) is disposed of without issuing notice to the opp. party-husband, liberty is granted to him to approach this Court for variation/modification of this order in case of utmost necessity.

8. The petitioner is directed to file requisites within one week for communication of this order to opp. party through Speed Post with A.D.

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

10. A copy of this order be sent to the Court of the learned Judge, Family Court, Jagatsinghpur by the Registry, at the earliest.

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Savitri Ratho
Judge

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