

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 122 of 2022

1. Smt. Bhagyashree Pati **Petitioners**
2. Dwizaa Rath

Mr. Samir Kumar Mishra, Advocate
Versus

Soumya Ranjan Rath **Opposite Party**
Mr.S. Chaini, Advocate

CORAM:

JUSTICE SAVITRI RATHO

ORDER

30.09.2022

(Through hybrid mode)

Order No.

05.

1. Heard Mr. Samir Kumar Mishra, learned counsel for the petitioners.
2. This application under Section 24 of the C.P.C. has been filed by the petitioners for transfer of C.P. No. 73 of 2021 filed by the opposite party-husband under Section 13 (i-a) (i-b) and 26 of the Hindu Marriage Act, in the Court of the learned Judge, Family Court, Angul, to the Court of learned Judge, Family Court, Subarnapur.
3. Joint affidavit has been filed by both the parties which is extracted below:-

“XXX

XXX

XXX

That during pendency of the aforesaid TRP(C) and TRP(CRL) in view of the order dated 20.07.2022 passed in TRP(CRL) by this Hon'ble Court for mediation, the parties

agreed to amicably settle the dispute in the following manner.

I. That, the parties hereby agree to dissolve the marriage on mutual consent by filing appropriate application under section 13-B of Hindu Marriage Act 1955 before the Learned Judge, Family Court, Cuttack within two weeks from the date of filling of this Joint affidavit in this above-noted case.

II. That, the petitioner no.1 will not have any claim of maintenance for her nor for the petitioner no.2 from the Opposite Party in any manner whatsoever. Both the parties agree to exchange the articles at the time of filling evidence affidavit in the mutual divorce proceedings as per the list exchanged between the parties. (The lists of the parties are annexed herewith as Annexure-1 Series)

III. That, the parties agree not make any further claim against each other in any manner what-so-ever and not to institute any proceeding against each other in future and also cannot claim any property from each other in future.

IV. That, the custody of child Dwizaa Rath will remain with the mother-petitioner no.1 namely Bhagyashree Pati. The opposite party Soumya Ranjan Rath agrees not to claim the custody of the child and not to claim any visitation right for child Dwizaa Rath.

V. That, the parties agree to withdraw all the proceedings (Civil and Criminal) filed by them upon production of

certified copy of mutual consent decree of divorce within two weeks and if any party will not withdraw the proceeding within the aforesaid stipulated time, the other party has liberty to file petition for drop the proceeding before the concerned Court and the same will be a condition in the mutual divorce. CMC No. 19 of 2019 which is pending before the Learned S.D.J.M., Biramaharajpur, CRP No. 15 of 2018 which is pending before the Learned S.D.J.M., Biramaharajpur and C.P. No. 73 of 2021 pending in the file of learned Judge, Family Court, Angul may kindly be stayed till disposal of the Mutual consent divorce proceeding.

VI. That, both the parties hereby declare save and except the cases mentioned above they have not instituted any other case against each other.

VII. That, both the parties hereby agree not to interfere in their respective personal matters and also refrain from causing any insult or humiliation to each other in any forum.

VIII. That, both the parties undertake to co-operate for early conclusion of all pending cases including divorce proceeding within a time bound period.

3. That both the parties filed this affidavit on their own volition without any influence and coercion.

xxx

xxx

xxx.”

4. In view of the averments in paragraph 2-V in the joint affidavit, further proceeding in C.P. No.73 of 2021 pending before the Court of the learned Judge, Family Court, Angul shall remain stayed till disposal of the mutual consent divorce proceeding to be filed in the Court of the learned Judge, Family Court, Cuttack. For the said purpose, learned counsels are required to furnish information regarding filing of the application for mutual divorce in the Court of the learned Judge, Family Court, Cuttack, before the learned Judge, Family Court, Angul.

5. With the aforesaid observation, the TRP(C) is disposed of.

6. Urgent certified copy of this order be granted on proper application.

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(Savitri Ratho)
Judge

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