

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 175 of 2022

Soumyarani Mahapatra

.....

Petitioner

Mr. Pulakesh Mohanty, Adv.

Vs.

Himanshu Bhusan Rout

.....

Opposite Party

Mr. Ashok Kumar Swain-1, Adv.

CORAM:

JUSTICE SAVITRI RATHO

ORDER

20.09.2022

Order No.

04.

(Through hybrid mode)

1. Heard Mr. Pulakesh Mohanty, learned counsel for the petitioner and Mr. Ahok Kumar Swain, learned counsel for the opp. party.

2. This application has been filed by the petitioner-wife under Section 24 of C.P.C. for transfer of Civil Proceeding No.287 of 2022 filed by the opp. party-husband under Section-9 of the Hindu Marriage Act, 1955 in the Court of learned Judge, Family Court, Bhubaneswar, to the Court of learned Judge, Family Court, Khurda (Camp Court), Banpur.

3. Mr. Mohanty, learned counsel for the petitioner submits that after ill-treatment and harassment by the opp. party-husband, she was driven out from the house along with two minor children, i.e. one son and one daughter, aged about 5 years and 3 years. Presently, she is living in Banpur with her father, as she has no independent source of income and is dependant on her father for day to day expenses. He further submits that the distance between Bhubaneswar and Banpur is about 100 K.Ms, for which it would be difficult for her to come to Bhubaneswar on each date to defend the case. He further submits that the petitioner has filed

Criminal Petition No.232 of 2021 in the Court of learned Judge, Family Court, Khurda), (Camp Court), Banpur under Section 125 Cr.P.C., where notice has been issued to the opp. party.

4. Mr. Swain, learned counsel for the opp. party submits that the allegations made against the opp. party are baseless but that as the opp. party has to go to the court of the learned Judge, Family Court, Khurda), (Camp Court), Banpur in Criminal Petition No.232 of 2021, he is agreeable if Civil Proceeding No.287 of 2022 is transferred from the Court of the learned Judge, Family Court, Bhubaneswar, to the Court of the learned Judge, Family Court, Khurda), (Camp Court), Banpur, but submits that the inconvenience caused to him will be reduced if the learned Judge, Family Court posts the two cases on the same day and disposes of Civil Proceeding No.287 of 2022 within a specified time limit.

5. 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 that Criminal Petition No.232 of 2021 filed under Section 125 of Cr.P.C. by the petitioner-wife is pending in the Court of learned Judge, Family Court, Khurda), (Camp Court), Banpur where pursuant to issue of notice the opp. party has appeared, it would be expedient in the interest of justice to transfer Civil Proceeding No.287 of 2022 pending in the Court of the learned Judge, Family Court, Bhubaneswar, to the Court of learned Judge, Family Court, Khurda (Camp Court), Banpur. The prayer for transfer is therefore allowed.

6. The learned Judge, Family Court, Bhubaneswar is requested to send the record of Civil Proceeding No.287 of 2022 (Himansu Bhusan Rout vs. Soumyarani Mahapatra) to the Court of learned Judge, Family Court, Khurda (Camp Court), Banpur by 11.10.2022. The parties shall appear in the Court of the learned Judge, Family Court, Khurda (Camp Court), Banpur on 20.10.2022 and cooperate for early disposal of the case. If the Camp Court is not functioning on that date, the learned Judge shall issue notice to the parties to appear on a suitable date.

7. The learned Judge, Family Court, Khurda (Camp Court), Banpur shall try to post Civil Proceeding No.287 of 2022 and Criminal Petition No.232 of 2021 on the same date as far as possible in order to minimize the inconvenience which will be caused to the opp. party and shall endeavour to dispose of the cases expeditiously.

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

9. Issue urgent certified copy as per rules.

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

Sukanta

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(SAVITRI RATHO)
JUDGE