

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 16852 OF 2022

Swarnaprava Mishra

.... Petitioner

Mr. Rajendra Kumar Dash, Advocate

-versus-

***Subasish Panigrahi @ Subhasish
Panigrahi***

.... Opp. Party

Mr. Bikram Chandra Ghadai, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

15.09.2022

Order No.

**W.P.(C) NO. 16852 OF 2022
& I.A. No.9049 of 2022**

1. 1. This matter is taken up through hybrid mode.
2. 2. I.A. No.9049 of 2022 is listed for consideration of condonation of delay.
3. 3. Since the RPFAM has already been converted to W.P.(C), Mr. Dash, learned counsel for the Petitioner does not want to press the I.A. submitting that no further order is necessary to be passed in the said I.A.
4. 4. The I.A. is accordingly disposed of.
5. 5. This writ petition has been filed assailing the order dated 16th March, 2022 (Annexure-3 series) passed by learned Judge, Family Court, Balasore in C.P. No. 83 of 2020, whereby he rejected an application filed on behalf of the Petitioner to adjourn the matter for conciliation.
6. 6. Mr. Dash, learned counsel submits that the Petitioner appeared in the civil proceeding on 25th January, 2021 and

thereafter, the matter was posted to 16th March, 2022 for conciliation. As the Petitioner is pursuing her studies in USA and it will be completed in the month of December, 2022, an application was filed for grant of two months' time for her appearance. But, learned Judge, Family Court, Balasore without considering the matter in its proper prospective rejected the petition and posted the matter to 13th April, 2022 for filing of list of the witnesses and documents. It is submitted that the Petitioner will be available to contest the civil proceeding after she completes her course which she is undertaking at USA. This aspect was not taken into consideration by learned Judge, Family Court, Balasore while taking up the petition for adjournment for conciliation of the matter. Hence, he prays for setting aside the impugned order and to permit the Petitioner to appear in the month of January, 2023.

7. Mr. Ghadai, learned counsel for the Opposite Party vehemently objected to the same. It is his submission that the Petitioner had earlier filed TRP(C) No. 223 of 2022 for transfer of civil proceeding from the court of learned Judge, Family Court, Balasore to the court of learned Judge, Family Court, Bhadrak stating that she is staying at Chandanpur under Basudevpur P.S. in the district of Bhadrak. In order to avoid appearance before the Court, she has resorted to falsehood that she is pursuing her studies in USA. No document in support of her contention has been filed. This Court while disposing of TRP(C) No. 223 of 2022 directed learned Judge, Family Court, Bhadrak to dispose of C.P. No. 83 of 2020 within a period of six months. Parties were

also directed to appear before learned Judge, Family Court, Bhadrak before 30th September, 2022. In the said TRP(C), the Petitioner has not raised any objection with regard to direction of the Court for early disposal of civil proceeding. These material facts were suppressed by the Petitioner in the writ petition. Hence, the writ petition is not maintainable and is liable to be dismissed.

8. Taking into consideration the submissions of learned counsel for the parties, this Court finds that TRP(C) No. 223 of 2022 was filed at the instance of the Petitioner for transfer of C.P. No. 87 of 2020 from the court of learned Judge, Family Court, Balasore to the court of learned Judge, Family Court, Bhadrak. In the said TRP(C), the Petitioner had taken a plea that she is residing at Chandanpur under Basudevpur P.S. in the district of Bhadrak. While disposing of the said TRP(C), this Court has directed to dispose of C.P. No. 83 of 2020 within a period of six months. While disposing of the transfer petition, the Petitioner had not taken any plea to the effect that she will not be available for early disposal of civil proceeding as she is pursuing her studies in USA. The Petitioner has sworn in the affidavit of this petition being present before the Notary Public at Cuttack on 24th June, 2022. In the said affidavit, she has stated to be residing at Chandanpur under Basudevpur P.S. in the district of Bhadrak. It further appears that the Petitioner did not produce any document before learned Judge, Family Court, Bhadrak to show that she is pursuing her studies in USA. Thus, the Petitioner has resorted to utter falsehood to avoid appearance before learned Family Court.

9. In view of the discussions made above, I am not inclined to entertain the prayer made in the writ petition. Accordingly, the writ petition stands dismissed.

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

(K.R. Mohapatra)
Judge

bks

