

IN THE HIGH COURT OF ORISSA AT CUTTACK
TRP (C) No.243 of 2022

Gourav Rout

....

Petitioner

Mr.P.R.Singh, Advocate

Versus

Priyanka Pallabi Pattnaik

....

Opp. Party

CORAM:

JUSTICE SAVITRI RATHO

ORDER

15.07.2022

Order No.

01. This matter is taken up by hybrid mode.
2. This application has been filed by the petitioner-husband under Section 24 of C.P.C. for transfer of C.P. No.19 of 2020 filed by the opp. party-wife under Sections-24 and 25 of the Special Marriage Act, 1954 in the Court of learned Judge, Family Court, Angul, to the Court of learned Judge, Family Court, Dhenkanal.
3. Learned counsel for the petitioner submits that the marriage between the petitioner and opp. party has been registered under the Special Marriage Act before the Marriage Officer, Dhenkanal on 31.8.2019. Thereafter, the marriage certificate dated 31.8.2019 had been issued under Annexure-2. He further submits that as the family members of opp. party-wife did not recognize the marriage between them and pressurized her, the opp. party has filed a petition before the Court of learned Judge, Family Court Angul at Angul even though she is not staying there and the marriage certificate has been issued by the Marriage Officer, Dhenkanal.
4. Referring to Section 31 of the Special Marriage Act, Mr. Singh, learned counsel for the petitioner submits that the petition should have been presented to the district court within the local limits of whose original civil jurisdiction—

(i) the marriage was solemnized; or (ii) the respondent, at the time of the presentation of the petition resides; or (iii) the parties to the marriage last resided together; or (iii-a) in case the wife is the petitioner, where she is residing on the date of presentation of the petition; or (iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time residing outside the territories to which this Act extends.

5. Mr. Singh, learned counsel for the petitioner further submits that the case should have been filed in Dhenkanal as in the cause title of the petition, the opp. party has indicated her permanent address to be the district, Dhenkanal and her present address to be at Angul. Referring to Paragraphs-5 and 27 of the Civil Proceeding petition, he submits that the opp. party is presently residing in Dhenkanal, for which the case should have been filed in Dhenkanal.

6. Section 31 (1) (iii-a) of Special Marriage Act provides that in case the wife is the petitioner, the case petition can be presented, where she is residing on the date of presentation of the petition and considering the fact that the Civil Proceeding has been filed by the wife whose convenience is to be given more weightage in matrimonial cases, I do not find any merit in the petition for transfer. However, considering the submission of learned counsel for the petitioner that the petitioner will face difficulty in having to travel to Angul with his witnesses, the learned Judge, Family Court, Angul is requested to make an endeavour to dispose of the C.P. case expeditiously.

7. The TRP (C) is accordingly dismissed.

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

.....
Savitri Ratho
Judge