

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP (C) No.268 of 2022

Smt. Sudhashree Biswal

....

Petitioner

Mr. Ashok Kumar Sahoo, Advocate

Versus

Satyabrat Biswal

....

Opp. Party

CORAM:

JUSTICE SAVITRI RATHO

ORDER

29.07.2022

Order No.

01.

This matter is taken up by hybrid mode.

2. Heard Mr. Ashok Kumar Sahoo, learned counsel for the petitioner.

3. This application has been filed by the petitioner-wife under Section 24 of C.P.C. for transfer of Civil Proceeding No.99 of 2022 filed by the opp. party-husband under Section 25 of the Ward and Guardianship Act read with Section 6 of the Hindu Minority and Guardianship Act for Custody of Child read with Section 7 of the Family Court Act in the Court of learned Judge, Family Court, Khurda, to the Court of learned Judge, Family Court, Cuttack.

4. Mr. Ashok Kumar Sahoo, learned counsel for the petitioner submits that the marriage between the parties had been solemnized on 19.06.2007 and on 23.09.2009, they were blessed with a female child. After birth of the female child, the opposite party and his family members tortured the petitioner for which she lodged a complaint before the Odisha State Commission for Women, Bhubaneswar on 20.04.2015

and the same ended in compromise between the parties. But after some years, the opposite party and his family members demanded dowry and assaulted the petitioner and she was rescued by her brother and taken to the Hospital for treatment. After her discharge, she lodged an F.I.R. before Mahila Police Station, Cuttack on 13.11.2016 and Cuttack Mahila P.S. Case No. 102/2016 under Section 498(A)/317/307/34 IPC and Section 4 of the D.P. Act was registered. During investigation of the case, the minor daughter of the petitioner was rescued and handed over to the petitioner and is presently staying with her. After commitment, the case is now pending in S.T. Case No. 112/2019 in the Court of learned ACJM-cum-Assistant Sessions Judge, Cuttack. The petitioner has filed D.V. Misc. Case No. 352 of 2016 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 in the Court of the learned S.D.J.M. (S), Cuttack and the opposite party has appeared in the case which is pending for disposal before the learned J.M.F.C., Cuttack. He further submits that C.P. No. 24 of 2019 under Section 13 (1) of Hindu Marriage Act had been filed by the opposite party in the Court of the learned Judge, Family Court, Khurda and pursuant to order dated 19.03.2020 passed in TRP(C) No. 157 of 2019, the prayer of the petitioner to transfer the case to the court of learned Judge, Family Court, Cuttack had been allowed and after transfer the case is now re-numbered as C.P. No. 451 of 2021 and the opposite party has entered appearance and the case is pending for hearing before the learned Judge, Family Court, Cuttack. Now, C.P. No. 99 of 2022 has now been filed in Khurda with the intention of harassing the petitioner. As the opposite party is coming to Cuttack to attend the other two cases, no

inconvenience will be caused to him if Civil Proceeding No.99 of 2022 is transferred to the court of learned Judge, Family Court, Cuttack. But the petitioner will face immense inconvenience if she has to go to Khurda to contest the case. That apart, since the daughter of the petitioner is residing with the petitioner in Cuttack, the case should have been filed in Cuttack.

5. Considering the above submissions and keeping in mind the fact that C.P. No.24 of 2019 has been transferred to Cuttack by this Court earlier, the daughter is living with the petitioner at Cuttack, the D.V. Misc. Case is pending in Cuttack and convenience of the wife is of paramount importance in such cases, the prayer for transfer is allowed.

6. The learned Judge, Family Court, Khurda is requested to send the record of Civil Proceeding No.99 of 2022 to the Court of learned Judge, Family Court, Cuttack by 22.08.2022. The parties are directed to appear in the Court of the learned Judge, Family Court, Cuttack on 12.09.2022. In case the opp. party does not appear on 12.09.2022, the learned Judge, Family Court, Cuttack is directed to issue notice to the opp. party for his appearance. Both the parties shall cooperate with early disposal of the case. The learned Judge, Family Court, Cuttack is requested to make an effort to post the two Civil Proceedings on the same date for the convenience of the opp. party.

7. The TRP (C) is disposed of.

8. 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.

9. The petitioner is directed to file requisites within one week for communication of this order to opp. party through Registered/Speed Post with A.D.
10. A copy this order be sent by the Registry to the Court of the learned Judge, Family Court, Khurda at the earliest.
11. Urgent certified copy of this order be granted as per rules.

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Savitri Ratho
Judge

puspa

