

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 298 of 2022

Smt. Rashmita Pradhan

.....

Petitioner

Mr. S. Mohapatra, Advocate

Vs.

Chowdhury Sanjay Dash

.....

Opposite Party

Mr. Sujit Lal, Advocate

CORAM:

JUSTICE SAVITRI RATHO

ORDER

29.08.2022

Order No.
01.

This matter is taken up through hybrid mode.

2. This application under Section 24 of the C.P.C. has been filed by the petitioner-wife for transfer of C.P. No. 49 of 2022 and C.P. No. 375 of 2022 stated to be pending in the Court of the learned Judge, Family Court, Cuttack, to the Court of learned Judge, Family Court, Balasore.

3. The Stamp Reporter has pointed out that C.P. No. 375 of 2022 is pending before the learned Judge, Family Court, Balasore.

4. Mr. Sujit Lal, learned counsel has entered appearance on behalf of the Opposite Party waiving notice. Copy of the TRP(C) is served on him in Court today.

5. In view of the fact that prayer for transfer of two cases have been made in one application, one of those cases is pending in Balasore and the incorrect averments have been made in the TRP(C) application, I would have dismissed the TRP(C) but considering that the petitioner is the wife, and Mr. Sujit Lal, learned counsel has already entered appearance on behalf of the opposite party, the application is taken up for final disposal on the

consent of the counsels.

6. Mr. S. Mohapatra, learned counsel for the petitioner submits that he does not want to press the prayer for transfer of C.P. No. 375 of 2022 as it is pending in the Court of the learned Judge, Family Court, Balasore and prays that C.P. No. 49 of 2022 filed by the opposite party-husband under Section 9 of the Hindu Marriage Act may be transferred to the Court of the learned Judge, Family Court, Balasore from the Court of the learned Judge, Family Court, Cuttack as the petitioner is staying in her parent's house in Cuttack and has no independent source of income and distance between Cuttack and Balasore is about 145 kms.

7. Mr. Sujit Lal, learned counsel for the opposite party submits that as the petitioner has filed C.P. No. 375 of 2022 in the Court of learned Judge, Family Court, Balasore, he has no objection if C.P. No. 49 of 2022 is transferred from the learned Judge, Family Court, Cuttack to the Court of learned Judge, Family Court, Balasore but he prays that a direction may be issued for expeditious disposal of the proceedings as he has to travel from Cuttack to Balasore to contest the two cases. But he submits that as the application of the opposite party for medical examination of the petitioner-wife under Order 32 Rule 15 of the Civil Procedure Code has been rejected by the learned Judge, Family Court, Cuttack, the opposite party may face difficulty if the case is transferred.

8. Considering the nature of the proceeding under Section 9 of the Hindu Marriage Act, prayer for transfer is usually not entertained and directions are issued for mitigating the difficulties

which may be faced by the wife. But as C.P. No. 375 of 2022 is already pending in the Court of the learned Judge, Family Court, Balasore, the prayer for transfer of C.P. No. 49 of 2022 to the same Court is allowed.

9. The learned Judge, Family Court, Cuttack is directed to send the record of C.P. No. 49 of 2022, to the Court of learned Judge, Family Court, Balasore by 12.09.2022. The parties are directed to appear before the learned Judge, Family Court, Balasore on 26.09.2022. In order to mitigate the inconvenience which will be faced by the opposite party, the learned Judge, Family Court, Balasore shall do well to post the two cases on the same date and dispose of the proceedings expeditiously.

Transfer of the Civil Proceeding will not be a bar for the opposite party challenging the order of rejection of his application for medical examination of the petitioner, before the appropriate forum.

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

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

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

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(SAVITRI RATHO)
JUDGE

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