

IN THE HIGH COURT OF ORISSA AT CUTTACK
TRP (C) No.324 of 2022

1.Madhusmita Behera

2.Abhi Palai

....

Petitioners

Mr.Rasmikanta Sahoo, Advocate

Versus

Nihar Ranjan Behera

....

Opposite Party

CORAM:

JUSTICE SAVITRI RATHO

ORDER

15.09.2022

Order No.

01.

(Through hybrid mode)

1. This application has been filed by the petitioners under Section 24 of C.P.C. for transfer of C.P. No.143 of 2022 filed by the opposite party (husband of petitioner No.1) under Section 13 (1) of the Hindu Marriage Act in the Court of learned Judge, Family Court, Jagatsinghpur, to the Court of learned Judge, Family Court, Jajpur or Cuttack.

2. Mr.Rasmikanta Sahoo, learned counsel for the petitioners submits that the petitioner No.1 was ill-treated on account of demand for dowry and she is staying in the house of her parents in Jajpur and Jajpur is about 125 K.Ms. away from Jagatsinghpur. Since the petitioner No.1 has no independent source of income and is dependent on her father, it would be inconvenient for her to go to Jagatsinghpur to contest the case.

3. Perusal of the petition reveals that this transfer application has been filed by the petitioner No.1 alongwith one Abhi Palai as petitioner No.2 and no reason has been stated as to why it would be inconvenient for the petitioner No.2 to go to Jagatsinghpur to contest the case. It appears that petitioner No.2 is a resident of Jagatsinghpur. Further, perusal of the petition filed in C.P. No.143 of 2022 by opposite party

reveals that the petitioner No.1 and opp. party have two children, aged about 11 years and 6 years and they are staying with the opposite party and are reading in Paschimeswar Primary School, Banito.

4. It is the settled position of law that the convenience of the wife is of paramount consideration in a matrimonial proceeding. But in the present case, this transfer petition has been filed by two petitioners and petitioner No.2 is a resident of Jagatsinghpur. Hence, I do not find any reason for exercising the power under Section 24 of C.P.C. to transfer C.P. No.143 of 2022 filed by the opposite party-husband of petitioner No.1 under Section 13 (1) of the Hindu Marriage Act in the Court of learned Judge, Family Court, Jagatsinghpur, to the Court of learned Judge, Family Court, Jajpur or Cuttack.

5. The TRP (C) is accordingly dismissed.

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

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Savitri Ratho
Judge

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