

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 278 of 2018

Binayini Bhagat

.....

Petitioner

Ms. S. Patra, Advocate

Vs.

Snehasis Balabantaray

.....

Opposite Party

Mr. Aditya Mishra, Advocate

CORAM:

JUSTICE SAVITRI RATHO

ORDER

15.09.2022

Order No.
09.

(Through hybrid mode)

1. Heard Ms. S. Patra, learned counsel for the petitioner and Mr. Aditya Mishra, learned counsel for the opposite party.
2. This application under Section 24 of the C.P.C. has been filed by the petitioner-wife for transfer of C.P. No. 857 of 2018 pending in the Court of the learned Judge, Family Court, Bhubaneswar, to the Court of learned Judge, Family Court, Cuttack.
3. Vide order dated 12.04.2022, the matter had been referred to the High Court Mediation Centre and further proceeding in C.P. No. 857 of 2018 pending in the Court of learned Judge, Family Court, Bhubaneswar had been directed to be stayed vide order dated 17.05.2022.
4. Today the case is put up along with the final mediation report in Mediation Proceeding No. 26 of 2022 along with a joint affidavit by both the parties.
5. The learned Mediator in the final mediation report dated 06.08.2022 has reported as follows:-

“On dtd. 02.05.2022, 13.05.2022, 23.06.2022, 06.07.2022, 16.07.2022, 30.07.2022 and today i.e. 06.08.2022, the mediation in joint as well as individual sittings were held between the parties in presence of their counsel and they have elaborated their grievances in detail. I have explained them the benefit of the mediation process. After 7 nos. of sittings, both the parties agreed to settle their dispute through mediation process. Accordingly, they have filed a joint affidavit to that effect today, which has been accepted and forms a part of the report.

As per the terms of the affidavit, both the parties agreed for transfer of C.P. No. 857/2018 to the learned Family Court, Cuttack from the Ld. Family Court, Bhubaneswar and shall file appropriate application before the Ld. Family Court, Cuttack for dissolution of their marriage as per the terms of the said affidavit. Further, both the parties agreed to return the articles/ car etc. to each other as per the enclosures of the said affidavit on the date of filing of the application and apart from the above, it was also agreed by and between the parties that at the time of filing of the application, the husband will deposit a sum of Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand) in shape of Demand Draft/ Banker’s Cheque before the Ld. Family Court, Cuttack in favour of the wife towards the expenses borne by the wife and her family members at the time of marriage

which will be handed over to the wife on the date of filing of the application for dissolution of their marriage with proper receipt which will be kept in the record.

Besides the above, both the parties have also agreed to take steps for disposal of the other cases filed against each other as stated in the said affidavit prior to disposal of their application before the Ld. Family Court, Cuttack.

*In view of the aforesaid circumstances, **the mediation became successful.***”

6. In the joint affidavit filed by the parties, they have agreed to settle of the disputes in the manner described in the joint affidavit which is extracted below:-

“That we the deponents in the course of mediation have agreed to settle all our disputes and differences as enumerated hereunder:

A. It is agreed and settled by and between the parties that the Husband/Opp.Party shall pay a consolidated amount of Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand only) to the Wife/Petitioner towards marriage and other expenses borne by the Wife and her family. The said amount shall be deposited before the Court of the Ld. Judge, Family Court, Cuttack at the time of moving application for separation/dissolution of the marriage solemnized between the Parties on dtd. 02.02.2017.

B. It is further agreed that the Wife/Petitioner who

at present is in possession of a Honda City Car bearing Registration No. OD-02 AG 3389 owned by the Husband/Opp. Party shall return the same and the Husband/Opp. Party in return shall also handover the house-hold articles brought by the Wife/Petitioner at the time of marriage (list has been prepared as per the mutual settlement arrived between the Parties) as per list enclosed as Enclosure-1 to this Affidavit before the Court of the Ld. Judge, Family Court, Cuttack at the time dissolution of the marriage solemnized between the Parties on dtd. 02.02.2017.

C. The Husband/Opp. Party further shall have no objection for transfer of C.P. No. 857 of 2018 from the Court of the Learned Judge, Family Court, Bhubaneswar to the Court of the Ld. Judge, Family Court, Cuttack. After transfer both parties agree to prefer joint application for mutual and amicable separation with leave from the Hon'ble High Court in terms of the Final Settlement reached at the Mediation without any further claims towards maintenance, alimony, expenses, etc. save and except as given herein above.

D. Both the Parties shall take necessary steps for withdrawing all the litigations pending between them in other Judicial Forums on the strength of this Joint Affidavit and accordingly both of them co-

operate with each other for termination of all Pending Civil and Criminal proceedings. List of all Cases pending between the Parties are given hereunder:-

- i. D.V. Misc. Case No. 314/2018 (filed by the Wife/Petitioner) pending before the Court of the Ld. J.M.F.C., Cuttack.*
- ii. Criminal Proceeding No. 96/2018 filed by the Wife/Petitioner) pending before the Court of the Ld. Judge, Family Court, Cuttack.*
- iii. D.V. Appeal No. 82/2019 (filed by the Wife/Petitioner) pending before the Court of the Ld. A.D.J.-II, Cuttack.*
- iv. C.P. No. 857 of 2018 (filed by the Husband /Opp. Party) presently pending before the Court of the Ld. Judge, Family Court, Cuttack.*
- v. C.T. Case No. 2116/2019 arising out of FIR No. 256/2019 lodged by the Wife/Petitioner.*
- vi. C.T. Case Bo. 4255/2018 arising out of FIR No. 0427/2018 lodged by Manasi Balabantaray who is the mother of the Husband/ Opp. Party*

E. It is agreed by virtue of this settlement, all claims and disputes arising out of the marriage, separation and otherwise between the parties and out respective family members/ parents stand resolved fully and finally and that no other or further claim in any respect whatsoever shall lie or

be raised by any party in future.

F. In view of this Affidavit we both the Parties undertake that neither we nor any of our respective family members/ parents will raise any kind of dispute or claim against each other and/or our family members in future arising out of the marriage solemnized between us on dtd. 02.02.2017 in any form whatsoever.

G. Both the Parties further agree that the above settlement is fair, amicable and reasonable and they have lent their signatures on their own volition and free with without any threat, coercion or undue influence whatsoever in the course of the Mediation Proceedings.

H. It is also agreed by and between the Parties that they shall conduct well and co-operate with each other in concluding all the litigations instituted against each other in view of the Settlement arrived between the Parties.

03. That, the Parties as mentioned above hereby undertake to honor and follow the Final Settlement to be drawn by the learned Mediator incorporating the above terms and conditions wholeheartedly without any deviation whatsoever.”

7. As both the parties are agreeable that C.P. No. 857 of 2018 be transferred to the learned Judge, Family Court, Bhubaneswar, to the Court of the learned Judge, Family Court,

Cuttack, the prayer for transfer is allowed.

8. The learned Judge, Family Court, Bhubaneswar is directed to send the record of C.P. No. 857 of 2018, to the Court of learned Judge, Family Court, Cuttack by 29.09.2022. The parties are directed to appear before the learned Judge, Family Court, Balasore on 12.10.2022 and file a joint application for mutual divorce by 19.10.2022.

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

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

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

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(SAVITRI RATHO)
JUDGE

puspa