

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No.328 of 2022

Sagarika Rath

....

Petitioner

-versus-

Sibabrata Mohanty

....

Opposite Party

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

08.12.2022

Order No

08.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. P.K. Nanda, learned counsel for the Petitioner and Mr. Aurobinda Mohanty, learned counsel appearing for the Opp. Party.

3. The transfer petition has been filed seeking transfer of C.P. No. 20 of 2022 pending before the learned Judge, Family Court, Cuttack to the Court of learned Judge, Family Court, Bhubaneswar.

4. Mr. Nanda, learned counsel for the Petitioner contended that the Petitioner in the meantime has filed an application under Section 9 of the Hindu Marriage Act in C.P. Case No. 661 of 2022 before the learned Judge, Family Court, Bhubaneswar and it will be convenient if both the matters will be heard analogously.

5. Mr. Mohanty, learned counsel for the Opp. Party on the other hand submitted that even though the Petitioner has entered appearance in C.P. No. 20 of 2022, but she is not filing her written statement and delaying the matter and if the matter will be

transferred at this stage, it can cause prejudice to the Opp. Party-husband.

6. Having heard learned counsel for the Parties and taking into account the grounds taken in the transfer petition, it is the view of this Court that since the other proceeding is pending at Bhubaneswar, it will be beneficial for both the Parties if the proceeding in C.P. Case No. 20 of 2022 will be transferred to the Court of learned Family Judge, Bhubaneswar.

7. However, taking into account the submission made by Mr. Mohanty that the Petitioner-wife is not filing her written statement in C.P. No. 20 of 2022 and basing on the submission made by Mr. Nanda that such written statement will be filed by 31st January, 2023, learned Family Judge, Bhubaneswar is directed to make all endeavor for disposal of both the proceedings within a period of six(6) months from the date of filing of the written statement.

8. However, it is observed that if as undertaken the written statement is not filed by 31st January, 2023, learned Family Judge, Bhubaneswar will be at liberty to proceed with the matter in absence of the written statement and decide the matter on merit.

9. The transfer petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha