

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 345 of 2022

Sunita Samal

.....

Petitioner

Mr. C.R. Sahu, Adv.

Vs.

Rajat Ranjan Das

.....

Opposite Party

CORAM:

JUSTICE SAVITRI RATHO

ORDER

28.09.2022

Order No.

(Through hybrid mode)

01.

This matter is taken up through hybrid mode.

2. Heard Mr. C.R. Sahu, learned counsel for the petitioner.

3. In this application under Section 24 of the C.P.C., the petitioner-wife has prayed for transfer of Civil Proceeding Case No.383 of 2022 filed by the opposite party-husband under Section 9 of the Hindu Marriage Act, in the Court of the learned Judge, Family Court, Cuttack, to the Court of the learned Family Judge, Berhampur.

4. Mr. Sahu, learned counsel for the petitioner-wife submits that marriage of the petitioner and opp. party has been solemnized on 29.06.2020 at Bhubaneswar and the opp. party was not satisfied with the gifts given to him and was demanding a car for which the petitioner was subjected to mental torture. Even though her father was detected to be suffering from cancer and was admitted in hospital at Bhubaneswar, she was not allowed to go there. When she went there to look after her father, she was abused by the opp. party and his family members in filthy language. After her father died on 23.06.2022, neither the opp. party nor any of his family members came to attend his obsequies and did not allow the

petitioner to return to the matrimonial house. Since then, the petitioner is living with her mother in Berhampur. She has lodged FIR at Mahila Police Station Berhampur leading to registration of Berhampur Mahila P.S. Case No. 174 of 2022 against the opp. party and other in-laws for commission of offence under Sections 498-A/294/323/506/34 of IPC and Section 4 of the D.P. Act. That apart, the distance between Cuttack and Berhampur being about 180 kms., it is difficult for the petitioner to go to Cuttack to attend the case. Learned counsel files a memo along with copy of the F.I.R. which are kept on record.

5. In view of the nature of the proceeding under Section-9 of the Hindu Marriage Act, and the delay caused in disposal of the case, if it is directed to be transferred, I do not think it is necessary to transfer the case from the Court of the learned Judge, Family Court, Cuttack, to the Court of the learned Family Judge, Berhampur. However, in view of the inconvenience which will be faced by the petitioner, if she is compelled to personally appear in the case on each date at Cuttack, I am of the view that interest of justice will be served if the petitioner is permitted to file her response in Civil Proceeding Case No.383 of 2022 (if not already filed) by way of an affidavit (alongwith an extra copy for the other side) and a copy of this order through her counsel or sent through Registered Post with A.D. addressed to the Judge, Family Court, Cuttack giving her contact number therein within a period of three weeks from today. In case she agrees to join the company of the opp. party, the learned Judge shall finally

dispose of the Civil Proceeding Case No.383 of 2022 by passing appropriate order within a period of four weeks thereafter. In the event the petitioner is not willing to join the opp. party, the learned Judge, Family Court, Cuttack shall first make effort for conciliation fixing a suitable date for appearance of both the parties giving enough notice to the petitioner. In the event, the conciliation process does not succeed or the parties do not cooperate, the learned Judge, Family Court, Cuttack shall conclude the proceeding as expeditiously as possible preferably within one or two dates from the date of failure of the conciliation, if any, without insisting on the personal appearance of the wife. In the event the petitioner expresses her intention to appear personally on any date and files an application for payment of travel expenses, the learned Court will consider the same and direct the husband to deposit an appropriate amount which shall be released in favour of the petitioner-wife. In case of her non appearance, the amount will be refunded to the opp. party.

6. The TRP(C) is disposed of with the aforesaid directions.
7. Urgent certified copy of this order be granted as per rules.
8. A copy of this order be sent to the Court of the learned Judge, Family Court, Cuttack by the Registry, at the earliest.

Issue urgent certified copy as per rules.

Sukanta

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(SAVITRI RATHO)
JUDGE