

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No.368 of 2022

Namrata Nibedita

....

Petitioner

-versus-

Pravat Kumar Sahoo

....

Opposite Party

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

13.12.2022

Order No

04.

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

2. Heard Mr. S.K. Dwivedy on behalf of Mr. P.R. Singh, learned counsel appearing for the Petitioner and Mr. P.K. Sahoo, learned counsel appearing for the Opp. Party.

3. This transfer petition has been filed seeking transfer of C.P. No. 543 of 2021 from the Court of learned Judge, Family Court, Cuttack to the Court of learned Judge, Family Court, Dhenkanal.

4. It is contended by the learned counsel appearing for the Petitioner that the Petitioner has already initiated a proceeding in Criminal Proceeding No. 19 of 2022 U/s. 125 Cr.P.C. before the learned Judge, Family Court, Dhenkanal and the Opp. Party-husband is appearing in the said case. It is also contended that the Petition filed by the Opp. Party under Sec. 9 of the Hindu Marriage Act, 1955 has been dismissed by the learned Judge, Family Court, Cuttack vide order dtd.24.09.2021. It is accordingly contended that since the Opp. Party-husband is facing another proceeding at Dhenkanal and taking into account the grounds taken in the present

transfer petition, the present proceeding be transferred to the Court of learned Judge, Family Court, Dhenkanal.

5. Mr. Sahoo, learned counsel for the Opp. Party on the other hand made his submission basing on the stand taken in the counter affidavit. It is contended that the Petitioner-wife is now serving in the office of one Gobinda Charan Pattnaik, Senior Tax Consultant and Advocate at Khannagar, Cuttack and she is earning more than 30,000/- per month.

6. Having heard learned counsel for the Parties and taking into account the grounds taken in the transfer petition, this Court finds that the Petitioner-wife has already initiated the proceeding in Criminal Proceeding No. 19 of 2022 before the learned Judge, Family Court, Dhenkanal claiming maintenance under Sec. 125 Cr.P.C. and the Opp. Party is taking part in the said proceeding. This Court further finds from the pleadings available in the record that the proceeding initiated by the Opp. Party under Sec. 9 of the Hindu Marriage Act has been dismissed by the learned Judge, Family Court, Cuttack vide order dtd.24.09.2021 and without taking any step to proceed with that matter, the Opp. Party has filed the proceeding in C.P. No. 543 of 2022 before the learned Judge, Family Court, Cuttack seeking custody of the minor daughter.

7. From the pleadings it is found that the minor daughter is residing with the Petitioner and she has taken admission in Ananda Marg Public School, Station Bazar, Dhenkanal. The grounds taken by the Opp. Party-husband in his objection to the transfer application are not germane to the issue and accordingly not found just ground to deny the transfer of the matter as prayed for by the Petitioner.

8. Considering the grounds taken in the transfer petition and the decisions governing the field as well as the fact that the Opp. Party is taking part in the proceeding in Criminal Proceeding No. 19 of 2022 before the learned Judge, Family Court, Dhenkanal, this Court is inclined to allow the prayer. Accordingly, this Court directs learned Judge, Family Court, Cuttack to transfer C.P. No. 543 of 2022 to the Court of learned Judge, Family Court, Dhenkanal forthwith on receipt of this order.

9. The transfer petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

05. I.A. No. 453 of 2022

1. In view of the order passed in the transfer petition, this Court is not inclined to pass any further order in the interim application.

2. Accordingly, the I.A. is dismissed.

(Biraja Prasanna Satapathy)
Judge

Sneha