

IN THE HIGH COURT OF ORISSA AT CUTTACK
TRP (C) No.368 of 2021

Sriyanka Pattnaik

.... ***Petitioner***
Mr.A.P.Bose, Advocate

Versus

Lalit Mohanty

.... ***Opp. Party***
Mr.S.K.Mishra, Advocate

CORAM:
JUSTICE SAVITRI RATHO

ORDER
06.07.2022

Order No.

03. This matter is taken up by hybrid mode.

2. This application has been filed by the petitioner-wife under Section 24 of C.P.C. for transfer of C.P. Case No.137 of 2019 filed by the opp. party-husband under Section- 13 of the Hindu Marriage Act in the Court of learned Judge, Family Court, Khurda, to the Court of learned Judge, Family Court, Bhubaneswar.

3. Mr. A.P.Bose, learned counsel for the petitioner –wife submits that even though the distance between Khurda and Bhubaneswar is negligible, but on account of the fact that C.P. Case No.656 of 2019 filed by the petitioner under Section-9 of the Hindu Marriage Act is pending in the Court of learned Judge, Family Court, Bhubaneswar and the husband has already appeared in the said case and since both the Civil Proceedings arise between the same parties, it would be convenient and interest of justice, if both the matters will be heard by the same Court and that would also be in the interest of justice as that would prevent passing of the conflicting order/judgments in the two Civil Proceedings which involve the same parties.

4. Mr. S.K.Mishra, learned counsel for the opp. party-husband objects to the said prayer stating that Civil Proceeding No.137 of 2019 had been first filed by the opp. party-husband in the Court of learned Judge

Family Court, Khurda and in order to harass the opp. party, the petitioner has filed C.P. No.656 of 2019 under Section- 9 of the Hindu Marriage Act in Bhubaneswar though she has no intentions of joining the company of opp. party-husband. He further submits that trial in the said case has started and some witnesses have been examined on 28.06.2022 and the examination of the opp.party was posted to 02.07.2022 but the said examination has been deferred to 23.07.2022, for which he will face immense difficulty if the case is transferred to Bhubaneswar.

5. Considering the rival submissions of the parties and the fact that the case under Section-9 of the Hindu Marriage Act filed by the petitioner-wife is pending in the Court of learned Judge, Family Court, Bhubaneswar and it would prevent possible conflict in the orders/judgment, if both the cases are heard in the same Court, the prayer for transfer is allowed. But keeping the convenience of the opp. party-husband in mind, it is directed that the records will be transmitted by the learned Judge, Family Court, Khurda to the Court of the learned Judge, Family Court, Bhubaneswar after examination of the witnesses of the opp. party-husband are over.

6. As C.P. Case No.656 of 2019 is posted to 23.07.2022 for examination of opp. party, the records of this case shall be transferred to the Court of learned Judge, Family Court, Bhubaneswar by 14.08.2022. Both the parties undertake to appear in the Court of learned Judge, Family Court, Bhubaneswar on 22.08.2022. The learned Judge, Family Court, Bhubaneswar is requested to make an endeavour for expeditious disposal of the two Civil Proceedings, preferably by the end of this year.

7. The TRP (C) is accordingly disposed of.

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

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Savitri Ratho
Judge

