

GAHC010233562019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Tr.P.(C)./78/2019

JAHNABI BORAH SAIKIA
W/O SRI DIPANKAR SAIKIA, D/O LT. DILIP CH. BORAH, PERMANENT R/O
VILL. SENURI PATH, KAMARCHUBURI, TEZPUR, PS. TEZPUR, DIST.
SONITPUR, ASSAM, PRESENTLY RESIDING AT C/O KAMONA SAIKIA
SORAH, FLAT NO. 505, PRAFULLA ENCLAVE, OPP. ICICI BANK, BELTOLA
SURVEY, GUWAHATI-781028, P.S. DISPUR, DIST. KAMRUP (METRO), ASSAM

VERSUS

DIPANKAR SAIKIA
S/O SRU SOMESWAR SAIKIA, R/O VILL. RANGAPUKHURIPAR, P.O.
DEKARGAON, TEZPUR, P.S. TEZPUR, DIST. SONITPUR, ASSAM

Advocate for the Petitioner : MR. M K DAS

Advocate for the Respondent : MR. P K MUNIR

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 29.01.2021

Heard Mr. M.K. Das, learned counsel for the petitioner and Mr. P.K. Munir, learned counsel for the respondent.

By this transfer petition under Section 24 CPC, the petitioner who is the estranged wife

of the respondent is seeking transfer of Misc. (Guardianship) Case No. 02/2019 from the Court of learned Addl. District and Sessions Judge, FTC, Tezpur, Sonitpur to the Court of learned Principal Judge, Family Court, Kamrup (M), Guwahati.

It is projected in this petition that after the matrimonial dispute, the petitioner lost her employment at Tezpur and she is now engaged in a new job at Guwahati and she is residing in the house of her aunt together with her minor child who has been put to school at Guwahati. It is projected that because of this two reasons, the petitioner is unable to travel to Tezpur alone with her minor child.

The learned counsel for the respondent has submitted that the guardianship case was filed on 19.04.2019 and it is only thereafter that the petitioner has left Tezpur in the month of July, 2019 and, as such, it is submitted that this application is not filed for genuine reason.

It is seen that in paragraph 9 of this application, it has been mentioned that the petitioner has filed MR Case No. 130/2018 under Section 125 Cr.P.C. seeking maintenance from the respondent and the learned counsel for the petitioner has submitted that the petitioner has applied for transfer of the said proceedings by filing an application before this Court which is registered as Tr.P. (Crl.) No. 35/2019 in pursuance of order passed therein, the said proceeding be also stayed.

On a query of the Court, the learned counsel for the respondent has submitted that the respondent is a government employee and he serving as Section Assistant in the Irrigation Department. Therefore, on consideration of the fact that the petitioner is residing at Guwahati with her minor child, the Court is inclined to accept the said explanation as a good cause to transfer the matrimonial proceeding being Misc. (Guardianship) Case No. 02/2019 from the Court of learned Addl. District and Sessions Judge, FTC, Tezpur, Sonitpur to the Court of learned Principal Judge, Family Court, Kamrup (M), Guwahati.

Accordingly, this application stands allowed and the matrimonial proceedings of Misc. (Guardianship) Case No. 02/2019 filed under Section 25 of the Guardianship and Wards Act, 1890 read with Hindu Minority and Guardianship Act, 1956 stands transferred from the Court of learned Addl. District and Sessions Judge, FTC, Tezpur, Sonitpur to the Court of learned Principal Judge, Family Court No.1, Kamrup (M), Guwahati. The said learned Court shall be at

liberty to assign the matter to any of the three Family Courts at Guwahati for disposal.

Both sides are directed to appear before the court of learned Addl. District and Sessions Judge, FTC, Tezpur, Sonitpur on 25.02.2021, on which date the petitioner shall produce a certified copy of this order before the said learned Court so as to enable the said learned Court to fix the date of appearance of the parties before the learned transferee Court and to transfer the records.

JUDGE

Comparing Assistant