

Bharati Bhattacharjee Vs Debotosh Bhattacharjee

Court: Gauhati High Court

Date of Decision: Dec. 19, 2002

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Section 24

Citation: (2003) 1 GLR 352

Hon'ble Judges: Ranjan Gogoi, J

Bench: Single Bench

Advocate: M. Nath, for the Appellant; None, for the Respondent

Final Decision: Allowed

Judgement

Ranjan Gogoi, J.

By this application u/s 24 of the Code of Civil Procedure, the petitioner-wife seeks the transfer of the proceedings

registered as Divorce Suit No. 5(H) of 1997 pending before the learned District Judge, East Khasi. Hills District at Shilling. The aforesaid

proceeding for divorce has been instituted before the learned District Judge at Shilling by the respondent-bus band. It may be noticed herein that

the petitioner seeks transfer of the said proceeding from the Court at shilling of the Family Court at Cuwahati as she is residing at Guwahati.

2. The grounds on which the transfer of the present divorce suit has been sought are that the petitioner, apart from, having a 17 year-old son has

no male member in her family to look after her. She is living at Guwahati with her aged and ailing mother and as she has no regular source of

income, it would not be possible for her to go to Shilling for conducting the case and also to take her witnesses of Shilling for examination in the

proceeding in question. The petitioner has further averred that she is suffering from acute bronchial problems and she has been advised by her

doctor not to visit any high altitude station.

3. The application for transfer is net opposed. Though the notices have been served, the respondent has chosen not to contest the proceeding.

4. Mr. M. Nath, learned counsel for the petitioner has relied on a judgment of this court in the case of Sikha Paul Choudhury v. Dilip Paul

Choudhury, reported in 2002 (2) GLT 599 in support of the grounds on which the transfer has been sought. In the case of Sikha Paul Choudhury

(supra), this Court has allowed the prayer for transfer of the divorce proceeding made by the wife on the ground that the Apex Court in the case of

Archana Rastogi v. Rakesh Rastogi has laid down the law that the financial difficulties as well as poor health of the wife are the adequate grounds

which can be taken note of by the Court while deciding the question of transfer of proceedings of divorce.

5. The grounds pleaded in the present petition are that the petitioner has no regular income of her own and that her present financial resources does

not enable her to conduct and contest the proceeding in Shilling. The affliction of bronchial problems is another ground on which the petitioner

contends that the divorce proceedings may be transferred to the Court at Guwahati. Following the decision of the Apex Court rendered in the case

of Archana Rastogi (supra) and having regard to the fact that the application for transfer is not opposed, I am inclined to hold that the petitioner has

made out a case for invocation of power for transfer vested in this Court u/s 24 of the Code of Civil Procedure.

6. Accordingly, the revision petition is allowed. The divorce proceeding registered as Divorce Suit No. 5(H) of 1997, new pending in the Court of

learned District Judge, East Khasi Hills District at Shilling shall stand transferred to the Family Court at Guwahati.