

GAHC010166392023



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

Case No. : Tr.P.(C)./68/2023

KESHAB JESOWARA
SON OF LATE HARIHAR JESOWARA,
RESIDENT OF HARLONGPHER,
LUMDING RAILWAY COLONY,
POST OFFICE AND POLICE STATION- LUMDING,
DISTRICT- NAGAON, ASSAM,
PIN - 782447.

VERSUS

KANTA JESOWARA
WIFE OF KESHAB JESOWARA,
RESIDENT OF STATION ROAD, (NEAR PUNJAB NATIONAL BANK,
CHAPARMUKH BRANCH),
POST OFFICE- CHAPARMUKH,
POLICE STATION- RAHA, DISTRICT- NAGAON,
ASSAM, PIN- 782425.

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI
ORDER

05.08.2023

Heard Shri A.I. Uddin, learned counsel for the petitioner, who has filed this petition under Section 24 (5) of the CPC read with Article 227 of the Constitution of

India whereby a prayer has been made for transfer of Title Suit (D) Case No. 52/2022 instituted before the learned District Judge, Morigaon. The said proceeding has been instituted under Section 13(1) (ia) (ib) of the Hindu Marriage Act, 1955 for divorce by the second party - wife. The transfer has been sought to any competent Court in Nagaon or Hojai.

The principal ground of challenge is that the Court at Morigaon does not have territorial jurisdiction as no cause of action has arisen within the territorial limits of the said Court. The learned counsel has further submitted that only to bring in the aspect of jurisdiction, an incorrect statement has been made in the petition filed for divorce that the 1st party (respondent) is presently staying at Morigaon in course of her work. The learned counsel has specifically referred to the provision of Section 24 (5) of the CPC.

The ground raised for transfer is one which is mainly on the factual aspect. Whether such aspect can be determined or adjudicated by this Court is itself debatable.

Be that as it may, let notice be issued, returnable on 01.09.2023.

Let steps be taken for service of notice upon the sole respondent by usual process as well as by registered post with A/D.

The prayer for interim order would be considered upon appearance of the parties.

JUDGE

Comparing Assistant