



IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 46 of 2026

Jyotirmayee Sahu ... Petitioner

-Versus-

Sashibhusan Panda ... Opp. Party

Advocates appeared in this case:

For Petitioner : Mr. Haripad Mohanty, Advocate

For Opp. Party:

CORAM:

HON'BLE MR. JUSTICE MRUGANKA SEKHAR SAHOO

J U D G M E N T

Decided on :24th February, 2026

MRUGANKA SEKHAR SAHOO, J.

1. The petitioner is the wife in the marriage. She is before this Court invoking Section 24 of the Code of Civil Procedure, 1908, seeking transfer of the CP No.1247 of 2025 initiated by the husband in the marriage U/s.9 of the Hindu Marriage Act seeking restitution of conjugal rights pending in the Court of learned Judge, Family



Court-II, Bhubaneswar to the Court of learned Judge, Family Court, Berhampur.

2. Heard learned counsel for the petitioner extensively.

3. Learned counsel for the petitioner relies on Section 19 of the Hindu Marriage Act to submit that the matrimonial proceeding initiated by the husband in the marriage seeking restitution of conjugal rights could not have been initiated at Bhubaneswar i.e. before the learned Judge Family Court-II, Bhubaneswar, in view of the provisions contained in Section 19 of the Hindu Marriage Act. For convenience of reference, the said Section is reproduced herein:-

“CHAPTER V

JURISDICTION AND PROCEDURE

[19. Court to which petition shall be presented.]—*Every petition under this Act shall be presented to the district Court within the local limits of whose ordinary original civil jurisdiction:—*

(i) the marriage was solemnized, or

(ii) the respondent, at the time of the presentation of the petition, resides, or

(iii) the parties to the marriage last resided together, or



[(iii-a) in case the wife is the petitioner, where she is residing on the date of presentation of the petition, or]

(iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.]”

4. It is submitted that none of the four conditions specified in Section 19 as quoted above are satisfied in case of the opposite party, who has filed the C.P. at Bhubaneswar for the Family Court, to have territorial jurisdiction.

In response, the learned counsel for the petitioner was requested to go through the copy of the petition filed before the learned Judge, Family Court-II, Bhubaneswar, wherein address of the petitioner has been given in the cause title as “*Sashibhusan Panda, aged about 39 years, S/o- Late Jagannath Panda, Resident of: A-404. Shreekheta Greenwood Apt, P.O.:Aigania, P.S.: Khandagiri , Bhubaneswar-751019, Dist-Khurda, Odisha*”. Further, Paragraph-1 and 19 of the petition indicate the place of solemnization of marriage and place of residence of the parties together



respectively. The said paragraphs are reproduced herein:

“1. That, the Petitioner is the husband of the Respondent and their marriage was solemnized on 4th May, 2022, as per Hindu rites and ceremonies and was held at Berhampur, Ganjam. The marriage was arranged through a mediator.

xxx

xxx

xxx

19. That, since the parties resided together at Bhubaneswar at petitioner’s house for most part after marriage the cause of action for dispute arose partly within the jurisdiction of this Hon’ble Court.”

5. The petitioner-wife has mentioned the address of the opposite party-husband-petitioner in the present petition as “Sashibhusan Panda, aged about 39 years, S/o- Late Jagannath Panda, Resident of: A-404. Shreekheta Greenwood Apt, P.O.:Aigania, P.S.: Khandagiri, Bhubaneswar-751019, Dist-Khurda, Odisha”.

6. Referring to paragraph-19 of the petition in the C.P. which was brought to the notice of the learned counsel for the petitioner, it is submitted by the learned counsel for the petitioner that the averments made in paragraph-19 of the petition are not correct. It is submitted that the petitioner-wife and the opposite party-husband did not stay at Bhubaneswar. It is



further submitted referring to paragraph-11 of the application that the petitioner-wife and the opposite party-husband stayed at Bengaluru.

7. Section 9 of the C.P.C. in Part-I provides for jurisdiction of the Courts and res judicata. It would be apposite to reproduce the said section which may assume some importance in addressing the issue.

“PART I

SUITS IN GENERAL

Jurisdiction of the Courts and res judicata

9. Courts to try all civil suits unless barred. – *The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.”*

In view of Section 9 of the CPC, at the stage of filing of a suit, may be before a Court which would lack territorial jurisdiction due to specific provisions of statute, it cannot be said that the Court cannot try the said suit and after notices are issued to the opposite party, at that stage the suit has to be transferred by the High Court to another Court claimed to have jurisdiction at the instance of the opposite party.

The contentions, if any, regarding jurisdiction of the Court can be and has to be decided by the learned



Court in seisin of the matter at the first instance, if raised by the defendant.

8. The opposite party if so wishes, may raise the issue of territorial jurisdiction at the appropriate stage, before the Court where the suit is filed. Section 9 of CPC mandates unless there is any express or implied bar, the learned Court shall have jurisdiction to try the matrimonial petition which is a suit in the civil nature. Further, the Court shall decide the issue of territorial jurisdiction if raised by the opposite party/respondent.

9. Reading of Section 19 of the Hindu Marriage Act makes it abundantly clear that the said Section limits the territorial jurisdiction of the Courts to entertain petition under the Act. However, the said Section cannot be read and interpreted to conclude that it is a bar for filing of petition under the Act before a particular Court.

10. Apparently, the petitioner is raising a issue of territorial jurisdiction which is a mixed question of fact and law, and it shall be open for the petitioner, if so advised to raise before the Court where the matter is pending and notices have been issued i.e. the learned Judge, Family Court-II, Bhubaneswar.

In considered opinion of this Court, at this stage, this Court exercising power U/s.24 of CPC cannot express any opinion regarding the said issue as it



requires evaluation of the facts and possibly would be a matter of evidence to be adduced by the parties if such issue is raised.

11. In view of the above, at this stage, it cannot be held that Section 19 is a bar for filing the suit, which has been filed i.e. C.P. No.1247 of 2025 U/s.9 of the Hindu Marriage Act, 1955 before the learned Judge, Family Court-II, Bhubaneswar. It has to be and is held that the petition filed by the husband U/s.9 of the Hindu Marriage Act, 1955 at this stage cannot be directed by this Court to be transferred to the Court at Berhampur as sought for by the opposite party-wife.

12. Accordingly, the petition is dismissed.

13. However, it shall be open for the petitioner to raise all such grounds that would be permissible under law at any stage including at the stage of filing her written statement before the learned Judge, Family Court-II, Bhubaneswar.

14. It is submitted by the learned counsel for the petitioner that the petitioner, if required shall avail the facility of Information and Communication Technology (ICT)/digital facility in the proceeding before the learned Judge, Family Court-II, Bhubaneswar.



It is directed that the parties to the litigation before the learned Court in seisin of C.P. No.1247 of 2025, if so advised, shall make application before the said Court for extending the facility of ICT such as virtual hearing, deposition etc. Upon making such application, learned court shall pass appropriate orders in accordance with law.

15. It is further clarified that this Court while considering the present petition has not considered the merits of the case of the parties to the litigation in any manner. The discussions made while adjudicating the present matter shall not be treated to be the opinion of this Court regarding the contentions of the parties that may be raised before the learned trial Court.

(Mruganka Sekhar Sahoo)
Judge

Orissa High Court, Cuttack
The 24th February, 2026/Radha