IN THE HIGH COURT OF ORISSA, CUTTACK

TRP(C) No.252 of 2024

CNR No. ODHC010609332024

Swagatika Rani Mercy ..... Petitioner

-Versus-

Danial Tete ..... Opposite Party

For Petitioner : Mr. L. Pradhan, Advocate

For Opposite Party : Mr. J.K. Mohanty, Advocate

CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing & Judgment: 28.09.2026

S.K. MISHRA, J.

1. This transfer petition has been preferred by the Petitioner-wife under Section 24 of Civil Procedure Code, 1908 for transfer of proceeding in C.P. Case No.120 of 2024, pending in the Court of learned Judge, Family Court, Rourkela, to the Court of learned Judge, Family Court, Kandhamal at Phulbani on the grounds detailed in the transfer petition.

2. Though the Opposite Party-Husband, being noticed, has appeared in the present case since long, but no written objection

has been filed till date opposing to the prayer for transfer. However, on consent of the learned Counsel for the parties, the matter is taken up for hearing and disposal at the stage of admission, permitting the learned Counsel for the Opposite Party-Husband to have his oral objection to the prayer made in the transfer petition.

3. Reiterating the grounds urged in the transfer petition, learned Counsel for the Petitioner submits, the Petitioner, being a deserted lady, having no source of income, is staying with her old and ailing mother at G. Udayagiri in the district of Kandhamal. As there is no male member in her family to accompany her and the distance between Kandhamal and Rourkela being around 250 K.Ms., it would be difficult on her part to attend the day to day proceeding before the learned Judge, Family Court, Rourkela.

4. That apart, at her instance, Misc. Case No.21 of 2024 filed under Section 144 (1) B.N.S.S., 2023, is now pending before the Court of J.M.F.C., G. Udayagiri, Phulbani for maintenance, in which case the Opposite Party-Husband has appeared and contesting the case at G. Udayagiri.

5. On being asked, learned Counsel for the Opposite Party-Husband submits, though his client was serving as a Fireman-Driver, because of the matrimonial issue, he tendered resignation on 15.04.2020 and it was accepted by the concerned Authority on the very same day. Being jobless, he is at present staying at his permanent village at Bhaludungiri, P.S. Bonai, in the district of Sundargarh. Having no source of income, he may face difficulty to attend the day to day proceeding at Phulabani. Accordingly, a prayer is made to permit the Opposite Party-Husband to appear through virtual mode.

6. He further submits, as per the instruction received, both the parties have resolved their matrimonial disputes by entering into an agreement unofficially and they may move joint application accordingly in C.P. No.120 of 2024 for divorce under the Special Marriage Act.

7. In view of the submissions made by the learned Counsel for the Petitioner, pleadings made in the transfer petition and the concession made by the learned Counsel for the Opposite Party-Husband, this Court is inclined to allow the prayer made in the transfer petition.

8. Accordingly, the learned Judge, Family Court, Rourkela is directed to transmit the case record in C.P. No.120 of 2024 to the Court of learned Judge, Family Court, Kandhamal at the earliest, preferably, within a period of seven days from the date of production of certified copy of this Judgment.

9. On receiving the case record in C.P. No.120 of 2024 from the Court of learned Judge, Family Court, Rourkela, the Court of learned Judge, Family Court, Kandhamal shall re-register the said case, if so required, and proceed further in accordance with law giving due opportunity to both the parties and shall try to conclude the said proceeding at the earliest.

10. It is made clear that the Opposite Party-Husband will be at liberty to appear before the Court of learned Judge, Family Court, Kandhamal through virtual mode, with due permission of the concerned Court, in case he faces any difficulty on any date to appear physically before the said Court.

11. The learned Judge, Family Court, Kandhamal is requested to explore the facility of video conferencing available in the said Court and allow the Opposite Party-Husband to appear through video conferencing mode, following the guidelines prescribed under the "High Court of Orissa and District Courts

Use of Electronic Communication and Audio-Video Electronic Means Rules, 2025".

12. However, on the dates of effective hearing, i.e., for examination and cross-examination of witness(es) and other purposes, for which his presence may be required by the Court and if it is so ordered, the Opposite Party so also his witness(es), if any, shall remain physically present before the learned Judge, Family Court, Kandhamal.

13. To avoid delay and notice, both the parties are directed to make a query themselves or through their Counsels from the Court of learned Judge, Family Court, Kandhamal to ascertain the date and purpose of posting of C.P. No.120 of 2024 and participate in the said proceeding.

14. Both the parties are further directed not to seek for unnecessary adjournments and cooperate with the learned Judge, Family Court, Kandhamal for early disposal of C.P. No.120 of 2024, as directed above.

15. With the said observation and direction, the transfer petition stands allowed and disposed of.

16. Office is directed to communicate a copy of this Judgment to the Court of learned Judge Family Court, Rourkela,

so also the Court of learned Judge, Family Court, Kandhamal enabling the said Courts to act in terms of the observations made above.

17. Interim order dated 04.09.2024 passed in I.A. No.248 of 2024 stands vacated. I.A. is disposed of accordingly.

18. It is made clear that, after transfer of proceeding in C.P. No.120 of 2024, if any petition is moved for mutual divorce in the said case, learned Judge, Family Court, Kandhamal shall do well to deal with and dispose of the said petition at the earliest in accordance with law.

Urgent certified copy of this Judgment be granted on proper application as per rules.

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S.K. Mishra, J.

Orissa High Court, Cuttack.
Dated, 28th September, 2026/ Banita

Signature Not Verified
Digitally Signed
Signed by: BANITA PRIYADARSHINI PALEI
Designation: SR. STENOGRAPHER
Reason: AUTHENTICATION
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 29-Sep-2026 16:39:11