

18.12.2020

Mithun

List – D/L

Sl. No. 06

Ct. No. 09

CO/1481/2019

with

IA No: CAN/1/2019 (Old No:CAN/7425/2019)

Debolina Khan nee Paul

-Vs.-

Aniruddha Khan

Mr. Amitabha Ghosh, Adv.,
Sk. Sujauddin, Adv, Adv.

... for the Petitioner

Mr. Malay Bhattacharyya, Adv.

...for the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure filed by the wife/petitioner against her husband/opposite party praying for transfer of Matrimonial Suit No.33 of 2019, now pending before the learned Additional District Judge, Bishnupur, Bankura to the Court of the learned Additional District Judge, Serampore, Hooghly.

The petitioner has prayed for transfer of the said suit mainly on two grounds, viz., first, she has been residing within the jurisdiction of the Court of the learned Additional District Judge at Serampore after being driven out from her matrimonial home. The matrimonial suit is pending before the learned Additional District Judge at Bishnupur. Distance between Serampore and Bishnupur in both ways is more than 200 Kms and secondly, the petitioner has two school going children. If the petitioner is compelled to attend Bishnupur Court to contest the aforesaid matrimonial suit, daily life of her children will be hampered.

Learned Advocate for the petitioner has also pointed out that the petitioner has filed an application under Section 125 of the Code of Criminal Procedure before the learned Additional Chief Judicial Magistrate at Serampore and her husband/opposite party has been contesting the said proceeding. Therefore, the opposite party will not face any hardship to attend Serampore Court from Bishnupur. On the other hand, due to the distance, financial hardship and need of the minor children, the petitioner will suffer much inconvenience if she is compelled to contest the suit at Bishnupur.

Learned Advocate for the opposite party, on the other hand submits that in an application under Section 24 of the Code of Civil Procedure arising of a matrimonial suit the Court should consider the comparative hardship of both the parties. The opposite party will also suffer hardship if he is compelled to come all the way Bishnupur to Serampore Court to contest two proceedings, one Section 125 of the Cr.P.C. and another, the instant suit, if transferred. He invites the Court to consider the hardship of the opposite party also.

Having heard the learned Advocate for the parties and on perusal of the application as well as other materials on record, it is ascertained that if convenience of both the parties are taking into consideration, the suffering of the petitioner will be more than the opposite party. The opposite party is admittedly contesting the proceeding under Section 125 of the Code of Criminal Procedure at Serampore. Therefore, he will not face much inconvenience if the matrimonial suit is transferred to the Court of the learned Additional District Judge at Serampore.

For the reasons stated above, Matrimonial Suit No.33 of 2019, pending before the learned Additional District Judge, Bishnupur be transferred to the Court of the learned Additional District Judge at Serampore for trial and disposal.

Learned Additional District Judge at Serampore is requested to fix the date of hearing of the suit preferably on the same day when the proceeding under Section 125 of the Cr.P.C. would be fixed by the concerned Court at Serampore. I hope and trust that the learned Advocates for both the parties will cooperate in this matter in the Trial Court so that the opposite party may not suffer much inconvenience.

The petitioner is at liberty to intimate the order obtaining server copy of the same to both the Courts below for information and compliance.

(Bibek Chaudhuri, J.)