

**18.12.2020**  
**Mithun**  
List – D/L  
Sl. No. 08  
Ct. No. 09

***CO/1778/2019***

***Smt. Anita Sharma***  
***-Vs.-***  
***Sri Manoj Bhargo***

Ms. Shebatee Datta, Adv

... for the Petitioner

The instant revision under Section 24 of the Code of Civil Procedure has been filed by one Anita Sharma, respondent of Matrimonial Suit No.939 of 2018 (hereinafter described as the petitioner), pending in the file of the learned Additional District Judge, E.C. Court at Paschim Medinipur. The aforesaid suit was filed by the opposite party herein praying for divorce against the petitioner in the said Court.

The petitioner has prayed for transfer of the said suit to the file of the learned District Judge at Howrah on the ground that after matrimonial discord, the petitioner has been residing at her paternal home within the jurisdiction of the learned District Judge, Howrah since 4<sup>th</sup> January, 2016.

It is further stated by the petitioner that the opposite party previously filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights against the petitioner which was registered as Matrimonial Suit No.917 of 2016 before the learned District Judge, Paschim Medinipur. The said suit was pending subsequently in the file of the learned District Judge, 7<sup>th</sup> Court at Paschim Medinipur. On the prayer of the petitioner the said Matrimonial suit was

also transferred to the Court of the learned District Judge, Howrah by a Coordinate Bench of this Court.

It is submitted by the learned Advocate for the petitioner that Matrimonial Suit No.939 of 2018 may also be transferred to the Court of the learned District Judge, Howrah on the same ground as agitated in the previous revision application being C.O.1341 of 2017.

The petitioner has stated in her application that it is not possible for her to attend the Trial Court at Paschim Medinipur to contest the aforesaid Matrimonial Suit for divorce. The petitioner has a school going daughter and if she travels to Paschim Medinipur on all dates when the suit will be fixed for hearing, it will not only cause her hardship but also hardship of the daughter of the petitioner. It is also alleged by the petitioner that the paternal family is also suffering from hardship. One of her brother is a day labourer and another brother earns his meagre livelihood working occasionally as priest.

Under such circumstances, it is prayed by the petitioner that if the said suit is transferred to the Court of the learned District Judge, Howrah, she will be able to contest the suit conveniently.

It is settled proposition that an application under Section 24 of the Code of Civil Procedure arising out of a matrimonial suit is required to be disposed of taking into account the comparative hardship of the petitioner and the opposite party. Moreover, financial hardship of the petitioner and her convenience are also relevant consideration in favour of the wife/petitioner.

In support of my observation of this Court, the decisions of the Hon'ble Supreme Court may be relied on:

- 1) ***Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi*** reported in ***(2004)12 SCC 237*** .
- 2) ***Tejalben Vs. Mihirbhai Bharatbhai Kothari*** reported in ***(2016)3 SCC 69***.

In view of the above discussion and considering the fact that if the petitioner is compelled to contest the suit at Paschim Medinipur she will face financial hardship and her daughter will surely lead a stressful life, I am inclined to allow the instant application.

Accordingly, the instant revision is allowed ex parte without cost.

Matrimonial Suit No.939 of 2018 pending in the file of the Additional District Judge, E.C. Court, Paschim Medinipur be transferred to the Court of the learned District Judge at Howrah.

Let a copy of this order be sent through the department to the learned Additional District Judge, E.C. Court, Paschim Medinipur and the learned District Judge at Howrah for information and compliance.

Learned District Judge, Howrah is at liberty to either hear out the suit himself or to transfer the same before the Court where Matrimonial Suit 917 of 2016 is presently pending.

Petitioner is also at liberty to communicate this order obtaining server copy of the same to the learned Courts below.

The instant revision, is thus, disposed of.

**(Bibek Chaudhuri, J.)**