

13 18.12.2020

Ct. No. 09

bd

C. O. 2848 of 2019

Payel Banik

Vs.

Sourav Banik

Mr. Deblina Lahiri.

... For Petitioner

Affidavit-of-service of the instant proceeding upon the opposite be kept with the record. In spite of service of notice the opposite party prefers to remain absent and accordingly the instant application under Section 24 of the Code of Civil Procedure is taken up for hearing ex parte.

By filing an application under Section 24 of the Code of Civil Procedure, the wife/petitioner has prayed for transfer of Matrimonial Suit 20 of 2019 filed under Section 27 of the Special Marriage Act from the 13th Court of the learned Additional District Judge, South 24 Parganas, Alipore to the Court of the learned Additional District Judge, Nabadwip in the district of Nadia specially on the following grounds :-

The petitioner has been residing at Nabadwip at her paternal home after being driven out from her matrimonial home. The distance between Nabadwip and Alipore is about 130 kms in one way, therefore, the petitioner will have to travel at least 260 kms in both ways on the dates of the trial of the matrimonial suit in order to contest the same.

Secondly the petitioner gave birth to a female child, who is now aged about three years only. If the petitioner is compelled to contest the suit at Alipore so long, no other alternative to take her minor daughter from her paternal home and this will be stressful to a great extent for the said minor child.

Thirdly, the petitioner filed an application under Section 125 of the Code of Criminal Procedure praying for maintenance against the opposite party at Nabadwip and the opposite party has been contesting the same at Nabadwip Court. The criminal Case under Section 498A and other cognate penal provision is also pending against the opposite party at Nabadwip Court at the instance of the petitioner.

It is submitted by Ms. Lahiri, the learned advocate for the petitioner, that the opposite party will not suffer any inconvenience if the matrimonial suit is transferred to Nabadwip as he has been contesting the criminal proceeding filed against him at Nabadwip. On the other hand, the petitioner will suffer inconvenience in terms of distance from her paternal home to the Court of the Alipore, the mental agony and stress for her minor child and so on. Therefore, the aforesaid matrimonial suit should be transferred to the Court of learned Additional District Judge, Nabadwip.

Having heard the learned advocate for the petitioner and on perusal of the materials on record and due regard being had on the proposition that in a proceeding under Section 24 of the Code of Civil Procedure for transfer of matrimonial suit, the convenience of the wife is the paramount consideration. I am inclined to allow the instant application.

Accordingly, the application under Section 24 of the Code of Civil Procedure is allowed.

Matrimonial Suit No. 20 of 2019 be transferred from the Court of the 13th Court of the learned Additional District Judge, South 24 Parganas, Alipore to the Court of the learned Additional District Judge, Nabadwip in the district of Nadia for trial and

disposal.

Office is directed to communicate this order to both the Courts below for information and compliance.

The petitioner is at liberty to communicate this order to both the Court below obtaining server copy of the same from the website.

The revisional application is thus disposed of.

There will be no order as to costs.

(Bibek Chaudhuri, J.)