

15 18.12.2020

Ct. No. 09

bd

C. O. 3083 of 2019

Shika Saha

Vs.

Vismit Gupta

**Mr. Devajyoti Barman,
Ms. Sanjukta Basu Mallick.**

... For Petitioner

The wife/petitioner has filed the instant application under Section 24 of the Code of Civil Procedure praying for transfer of Matrimonial Suit No. 189 of 2018 being proceeding under Section 9 of the Hindu Marriage Act filed by her husband/opposite party in the Court of the learned Additional District Judge, Alipurduar to the learned District Judge, Malda.

In her application it is stated by the petitioner that her marriage with the opposite party was solemnized on 10th June, 2017. After marriage she went to her matrimonial home and stayed there only for a year and after that she was physically assaulted and mentally harassed and finally driven out by the opposite party on 1st May, 2018, since then she has been residing at her paternal home at Malda.

It is stated by the petitioner that the distance between Malda and Alipurduar is about 350 kms in one way. The petitioner has no source of income and she has been residing of her paternal home under the mercy of her married elder brother. It is also stated that if the suit is transferred to Malda it would be possible for the petitioner to contest the said suit.

It is pertinent to mention here that the opposite party even after receipt of notice has not appeared to contest the instant proceeding. It is also

found from the record that the petitioner has filed an application under Section 125 of the Code of Criminal Procedure at Malda which is now pending before the learned Judicial Magistrate, 3rd Court at Malda.

In the facts of the case I am of the view that the petitioner will suffer inconvenience if she is compelled to contest the suit at Alipurduar. In a proceeding under Section 24 of the Code of Civil Procedure arising out a matrimonial suit, convenience of the wife is the paramount consideration and keeping in mind the distance of the trial Court from her present residence and the financial hardship that may be faced by her, I am inclined to allow the instant application.

Accordingly, Matrimonial Suit No. 189 of 2018 be transferred from the Court of the learned Additional District Judge, Alipurdiar to the Court of the learned District Judge, Malda for trial and disposal.

Department 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 official website.

The revisional application is thus disposed of.

There will be no order as to costs.

(Bibek Chaudhuri, J.)

