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15.07.2021
S.D.

Through Video Conference

C.O. 12 of 2021

Smt. Sampita Das (nee Sadhukhan)

Vs.

Shri Soutik Das

Mr. Samarjit Basu

Mr. Amit Pan

...For the petitioner.

Ms. Suman Sehanabis (Mandal)

...For the O.P.

The affidavits having been exchanged, now the application under Section 24 of the Code of Civil Procedure is taken up for hearing.

Heard learned Advocates for both the parties. Perused the application, the affidavit-in-opposition and reply thereto.

In this application, the petitioner/wife has sought for transfer of matrimonial suit being M.A.T. Suit No. 291 (10) of 2020 pending before the learned Additional District Judge, Fast Track Court, Siliguri to the file of learned District Judge at Barasat.

Admittedly, the petitioner is the wife of the opposite party and they were wedded together on 6.5.2013 as per the Hindu rites and customs. The opposite party is a service

holder on the professional score and gainfully employed with as a Senior SAP consultant in WIPRO.

It is submitted on behalf of the petitioner/wife that since after the marriage, the opposite party/husband was indifferent in his behaviour towards the petitioner and was only interested in maintaining a physical relationship with the petitioner and the petitioner was often subjected to assault. The petitioner was blessed with a boy child on 7.6.2017, who was compelled to leave the opposite party/husband on 3.3.2020 at Bangalore with her child and came to reside in her father's place at New Town, Kolkata. All on a sudden on 31.10.2020, the petitioner received a summon from the Court of the Additional District Judge, Fast Track Court, Siliguri and she came to learn that the opposite party/wife has filed an application under Section 13 of the Hindu Marriage Act, 1985 *inter alia* praying for decree of divorce against her. The proceeding in the matrimonial suit abovementioned is pending in the Additional District Judge, Fast Track Court, Siliguri which required to be transferred to the Court of learned District Judge, Barasat because the petitioner has to travel across to Siliguri in order to contest the suit with immense difficulty. The petitioner's minor child is 3 years old and the petitioner's father is 68 years old and

they are more vulnerable to the COVID-19 pandemic. Out of city travels by the petitioner would endanger the health of both her minor child and parents. That apart, the petitioner is a service holder in private company in Kolkata and as such it is extremely difficult for her to leave her job and her child every time to come to Siliguri to contest the suit. Moreover, her child is enrolled in a school in Kolkata from academic year 2021-22.

Now, the petitioner is eager to contest and defend the suit, but in view of the strained relationship and the distance of travel required, it is impossible for her to defend the matrimonial proceeding pending in the Court of Additional District Judge, Siliguri. Moreover, the petitioner was compelled to file application under Domestic Violence Act, 2005 now registered as D.V. Case No. 1872 of 2020 pending in the Court of Additional Judicial Magistrate at Barasat. She had also filed an FIR being No. 226 of 2020 under New Town Police Station and also filed an application under Guardians and Wards Act, 1890 being Misc. Case No. 200 of 2020 which is pending before the District Judge at Barasat. Thus, there are around three cases pending as against the opposite party/husband which have been instituted on behalf of the

petitioner and in said proceedings, the opposite party/husband has to enter appearance to defend those cases.

Now, in the given scenario, it would be convenient even for the opposite party to contest all the cases at one place. Therefore, in order to enable the petitioner to contest the matrimonial suit being M.A.T. Suit No. 291 (10) of 2020 pending in the Court of learned Additional District Judge, Siliguri be withdrawn and be transferred to the file of learned District Judge, Barasat.

On submission of the learned Advocates for the parties, there is a scope for reconciliation between the parties and in the interest of welfare of the child blessed to them, it is desired that the learned District Judge, Barasat would undertake exercise for reconciliation between the parties before going to trial.

Thus, the application under Section 24 of the Code of Civil Procedure being C.O. 12 of 2021 is allowed without any order as to costs.

Let a copy of the order be communicated to both the transferor and transferee Court for necessary action.

(Shivakant Prasad, J.)