

08.01.2021
D/L-17
Ct-9
(AD)

(Via Video Conference)

C.O. 402 of 2020

Chandra Das
Vs.
Partha Sarathi Dev

With
IA No.: CAN 1 of 2020 (Not in the file)

Ms. Sayanti Santra
... For the petitioner.

Affidavit of service filed in Court today be kept with the records.

This is an application under Section 24 of the Code of Civil Procedure filed by the wife/petitioner praying for transfer of Matrimonial Suit No.59 of 2019 pending before the learned Additional District Judge, Chanchal, Malda to the Court of the learned Additional District Judge, Durgapur, Paschim Bardhaman. It is stated by the petitioner that her marriage with opposite party was solemnized on 6th November, 2017. After marriage, she went to the official quarters of the opposite party to lead her marital life. Both of them stayed together in the official quarters of SAIL as the opposite party was an employee of the Steel Authority of India Limited (SAIL). Subsequently, the opposite party without any rhyme or reason deserted the petitioner and on 6th September, 2019 he filed a suit for divorce against the petitioner which is registered as Matrimonial Suit No.59 of 2019. The said suit was pending in the Court of the learned Additional District

Judge at Chanchal, Malda. It is stated by the petitioner that the distance between Durgapur and Chanchal is about 400 kilometers. The petitioner is still resided in the official quarters of the opposite party. She has no source of income. If she is compelled to contest the suit at Chanchal, she will suffer serious inconvenience.

It is needless to say that while disposing of an application under Section 24 of the Code of Civil Procedure, arising out of a matrimonial suit, the following points are required to be considered by the Court judiciously:

- (i) Convenience of the parties;
- (ii) Expenses likely to be incurred.

In the instant case, the petitioner has stated that she will have to make a travel of about 400 kilometers which is absolutely inconvenient to her. The petitioner is not getting any maintenance allowance from the opposite party. In a proceeding under Section 24 of the Code of Civil Procedure, convenience of the wife should be considered as a prime consideration and if the Court finds that the present place of trial is inconvenient for the wife, the Court will certainly transfer the matrimonial suit to a Court which will be convenient for her. The decisions of the Hon'ble Supreme Court in the cases of *Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi*, reported in (2005) 12 SCC 237, *Usha*

Choudhary (smt) vs. Dilip Choudhary, reported in (2004) 13 SCC 683, *Archana Singh vs. Surendra Bahadur Singh*, reported in (2005) 12 SCC 395 and *Neelima Rani vs. Srikanth*, reported in (2005) 12 SCC 387 may be relied on in this regard.

For the reasons stated above, the instant application is allowed.

Matrimonial Suit No.59 of 2019 be transferred from the Court of the learned Additional District Judge, Chanchal, Malda to the Court of the learned Additional District Judge, Durgapur, Paschim Bardhaman for trial and disposal.

The department is directed to serve a copy of the order to both the Courts below for information and compliance.

The parties are at liberty to act on the server copy of this order.

With the disposal of the revisional application, all the interim applications are disposed of.

(Bibek Chaudhuri, J.)