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SK
Ct. No. 18
10.09.2021

**C.O. No. 363 of 2021
(Via Video Conference)**

**Smt. Debalina Ghosh nee Banerjee
Vs.
Sri Subrata Ghosh**

Mr. Amitabha Majumdar,
Mr. Mrinal Kanti Das,
Ms. Anuradha B. Roy (Majumdar)
... For the petitioner.

Ms. Devipriya Mitra ... For the opposite party.

Affidavit-of-service filed on behalf of the petitioner in Court today be kept with the record.

The wife/respondent of the Matrimonial Suit No. 362 of 2020, subsequently re-numbered as Matrimonial Suit No. 29 of 2020 filed by the husband/opposite party for dissolution of the marriage between the parties by a decree of divorce, pending before the 2nd Court of learned Additional District Judge at Asansol, District – Paschim Burdwan, is the petitioner of the present application under Section 24 of the Code of Civil Procedure.

The petitioner by the present application is praying withdrawal of the aforesaid suit from the Court where it is now pending and transfer of it to the 1st Court of learned Additional District Judge at Barasat, District – 24 Parganas (North), on the ground that she resides at Barasat, as such, it would be difficult for her to travel from her residence to Asansol to contest the said matrimonial suit.

The other ground on which the petitioner is seeking such withdrawal and transfer of the said suit is that another suit filed by her for restitution of conjugal rights of the parties being Matrimonial Suit No. 169 of 2020 is pending before the 1st Court of learned Additional District Judge at Barasat, District – 24 Parganas (North) and the husband/opposite party is contesting the said suit.

Ms. Devipriya Mitra, learned counsel appearing on behalf of the opposite party submits that her client has no objection if the suit is transferred to the Court as prayed for but her client expects expeditious disposal of the said suit.

In view of the distance between Barasat and Asansol, the inconvenience pleaded by the petitioner cannot be ruled out, that apart, when a suit for restitution of conjugal rights of the parties is pending before a competent Court at Barasat, the suit for divorce is required to be transferred to the said Court to avoid conflicting decisions. The prayer of the petitioner, therefore, deserves to be allowed.

Let the Matrimonial Suit No. 29 of 2020 be withdrawn from the 2nd Court of learned Additional District Judge at Asansol District – Paschim Burdwan and be transferred to the 1st Court of learned Additional District Judge at Barasat, District – 24 Parganas (North), where the said matrimonial suit filed by the wife/petitioner seeking restitution of conjugal rights of the parties is pending.

The transferee Court shall proceed to dispose of the said suit for divorce from the stage where it has already reached. The transferee Court shall also make all endeavour for expeditious disposal of both the suits in accordance with law.

The department is directed to communicate this order immediately to the 2nd Court of learned Additional District Judge at Asansol, District–Paschim Burdwan.

Since no affidavit-in-opposition has been invited from the opposite party, the allegations made in the application are deemed to have been denied by him.

C.O. 363 of 2021 is thus allowed with the above terms without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)