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7.07.2021
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Through Video Conference

**C.O. 754 of 2021
Shila Das (Sarkar)
Vs.
Apurba Sarkar**

Mr. Shibaji Kumar Das

...For the Petitioner.

Affidavit of service filed in Court be kept on record. It reflects that the track report indicates that the service has been confirmed upon the opposite party. Since none appears on behalf of the opposite party despite service, the application under Section 24 of the Civil Procedure Code is taken up for hearing.

In this revisional application, the petitioner/wife has sought for transfer of Matrimonial Suit No. 1758 of 2020 (Apurba Sarkar vs. Shila Das (Sarkar) under Section 9 of the Hindu Marriage Act, 1955 now pending in the file of learned Additional District Judge, Fast Track Court No. 2, Barrackpore, North – 24 Parganas to the Court of learned District Judge, Nadia at Krishnagar or to any other Court within the territorial jurisdiction of the present residence of the petitioner. The petitioner is presently residing at Village – Joygopalpur, P.O. – Hijuli, P.S. Ranaghat, District – Nadia

whereas the husband resides at 5/A, Bijaynagar, P.O. & P.S. Naihati, District – North 24 Parganas.

It is submitted that after marriage on 31.1.2020, the petitioner went on her matrimonial home with her husband where the marriage was consummated. But since the marriage, she was subjected to physical and mental torture by the opposite party/husband on various pretext and on further demand of dowry to tune of Rs.2 lakhs which compelled her father to transfer his house in favour of the opposite party/husband herein since the her father was unable to meet the further demand of dowry. The opposite party has filed a suit for restitution of conjugal right under Section 9 of the Hindu Marriage Act, 1955 as against her in the Court of the learned Additional District Judge, Barrackpore, District – North 24 Parganas and the same has been registered as Matrimonial Suit No. 1758 of 2020 on frivolous allegations as stated in the body of the said petition.

The petitioner has sought for transfer of the case to the Court of District Judge, Nadia at Krishnagar or to the Court of Additional District Judge, Ranaghat.

The contentions raised are that in order to the learned Court below at Barrackpore on the dates fixed, the petitioner has to leave her residence at 8 A.M. in the morning and

return at 7 P.M. at night. The petitioner further contends that for reaching to learned Court below at Midnapore Town, on the dates fixed by 10.30 A.M. through the shortest possible route, the petitioner has to leave her residence situated at Village – Joygopalpur, District – Nadia at 8 A.M. in the morning and board a trekker van which is always not available in the early hours of the morning and travel a distance of about 8 kilometers to reach Ranaghat Railway Station. From Ranaghat Railway Station, she has to overcome the heavy and tremendous rush of daily passengers travelling to Kolkata which she is not accustomed to being a housewife and also amidst the feat of getting infected by the Novel Corona Virus she has to board a train and has to reach the Barrackpore Station which takes about 1 ½ to 2 hours time and subject to availability of train and 60 kilometers away. Thereafter from Barrackpore Railway Station the petitioner once again has to board an Auto rickshaw and travel a distance of 2 kilometers to reach the learned Court at Barrackpore. Hence it is very must clear that to attend the learned Court at Barrackpore from her residence at village – Joygopalpur, District – Nadia and for returning back to her residence on the selfsame day, the petitioner has to travel more than 70 kilometers in single journey and thereby 140

kilometers in a day and undergo several break journeys and bear the travelling expenses for the same and remain detached from her residence for about 10-11 hours which is quite impossible on her part as she is not maintained by the opposite party/husband herein at all. The petitioner further states that she does not receive any maintenance from the opposite party herein for which it is very difficult for her to maintain her livelihood, bear the expenses and continue with such litigation by travelling such long distance to the learned Court at Barrackpore from her residence at Village – Joygopalpur, District – Nadia. Furthermore, the petitioner herein presently also has no one to accompany her to the learned Court below at Barrackpore on the date fixed particularly when her aged ailing father cannot do so any more and it is also not possible for her to remain detached from her residence for about 10/11 hours in a day. Furthermore, travelling of such long distance by a lady alone always involves an element of risk and the petitioner herein also has no relative in the Barrackpore where she can stay and pursue with the litigation on the dates fixed. But on the contrary, if the said case is transferred to the Court of the learned District Judge, Nadia at Krishnagar or to any other learned Court which is within her present territorial

jurisdiction it will be closer from her residence and convenient for her to pursue the litigation particularly when she can reach the learned Courts easily from her paternal home thereby enabling her smooth and hassle less travel. Moreover, such transfer will not cause prejudice to the opposite party and cause inconvenience to him as he is very much financially stable and sound having sufficient source of income and is residing at Naihati in the District – North 24 Parganas. The transfer sought for will also benefit the petitioner herein additionally as her travelling expenses will be saved when she is not being maintained by the opposite party herein.

Now it is pointed out by Mr. Shibaji Kumar Das, learned Advocate for the petitioner that if the matrimonial suit is transferred to the Court of Additional District Judge, Ranaghat under the district Nadia, it would be convenient for both the parties to commute from their respective residences on the date of hearing of the suit.

I understand that Ranaghat Sub-divisional Court is near to the residence of the opposite party/husband at Naihati. Similarly, it would be convenient for the petitioner/wife to attend Court at Ranaghat.

Having regard to the convenience of the parties and in the catena of decisions of the Hon'ble Supreme Court wherein it has been held that it is always preferable to transfer suit to the jurisdiction of the learned Court where the wife resides and grant her opportunity to contest the suit on merits as best justice is always rendered if the suit is heard out on contest.

For the reasons above, let the Matrimonial Suit being No. 1758 of 2020 under Section 9 pending in the Court of the learned Additional District Judge, Fast Track Court No. 2, Barrackpore, District – North 24 Parganas be transferred to the file of learned Additional District Judge, Ranaghat in the district of Nadia.

Let a copy of this order be communicated to the Transferor as well as the Transferee Court for necessary action on their part.

Thus, the revisional application being C.O. 754 of 2021 is disposed of without any order as to costs.

(Shivakant Prasad, J.)

