

15.12.2021
Item No.3
Ct. No.7
CHC

**C.O.868 of 2021
IA NO. CAN/1/2021
CAN/2/2021
(not in file)
(Physical Hearing)**

**Smt. Pika Roy nee Ghosh
Vs.
Sri Debasish Chandra Roy**

Mr. Sambhunath De,
Mr. Ranjit Kumar Ghosh
...for the petitioner

Mr. Partha Chakraborty,
Ms. Sharmistha China,
Ms. Puja Mondal
...for the opposite party

This is an application for transfer of Matrimonial Suit No.107 of 2018 from the court of learned Additional District Judge, 13th Court, at Alipore to the court of learned Additional District Judge at Barrackpore, North 24 Parganas.

Mr. Sambhunath De, learned advocate for the petitioner/wife submits that after being deserted by her husband, the petitioner/wife has been compelled to stay in her parental house at Naihati in a most neglected condition. Presently, she has been residing in her parental house. She has no income of her own to maintain herself. In the meantime, petitioner/wife has invited multiple litigations against her husband,

which are under 125 Cr.P.C. seeking maintenance, restitution of conjugal rights and a criminal case under Section 498A I.P.C. and allied sections. Admittedly, the husband/opposite party is on bail in the criminal case. The opposite party/husband is a government official now attached to the GST division and posted at Kolkata.

As regards the points set out in the transfer application, the hardship, harassment, multiplicity of litigations and the financial constraints are focussed by the learned advocate for the petitioner/wife.

Per contra, Mr. Partha Chakraborty, learned advocate for the opposite party/husband submits that the opposite party would be put in a most inconvenient situation in the event of the case being transferred to Barrackpore Court from the court of Alipore, as the same would adversely affect the service of the opposite party/husband and unnecessarily the husband would be put to face harassment.

In a case of this nature, the comparative advantages, disadvantages and harassment of the parties are of highest significance.

In the instant case, the petitioner/wife has proposed for transferring the case to Barrackpore Court from Alipore Court. The husband is now posted at Kolkata being a government official.

From the submissions disclosed by either of the parties to this case, there has been no commencement of the trial so far as the instant Matrimonial Suit is concerned meaning thereby that the pending Matrimonial Suit is not at the advance stage of the proceeding.

Having considered the rival submission of the parties and bearing in mind the advantages, disadvantages and comparative harassment of the parties, if the case is transferred to Sealdah Court, where it is expected to curtail the comparative harassment of either of the parties to this case to a considerable degree, that would not cause any prejudice to the either of the parties to this case. Sealdah Court is situated at a convenient location, which can be easily commuted by both the parties to this case taking several conveyance available for the purpose.

The transfer application is thus disposed of directing the learned Additional District Judge, 13th Court, Alipore to transfer Matrimonial Suit No.107 of 2018 to the court of learned Additional District Judge, 2nd Court, at Sealdah, South 24 Parganas within a fortnight from the date of communication of this order.

Both the parties are directed to ensure their respective appearance before the transferee court on 21st January, 2022.

The transferee court is directed to proceed with the pending Matrimonial Suit immediately after receipt of the same from the transferror court and proceed to dispose of the same providing sufficient opportunity of hearing to the either of the parties to this case.

With the disposal of the transfer application, connected CAN applications are also disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Subhasis Dasgupta, J.)