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AGM 2021
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C.O. 996 of 2021

Sri Pankaj Kumar Datta
Versus
Smt. Mousumi Dutta.

(Via Video conference)

Mr. Susenjit Banik,
Mr. Sanjib Seth.
Ms. Sutapa Mukhopadhyay.
... For the petitioner.

Mr. Ivan Roy,
... For the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure, seeking transfer of a Matrimonial Suit No. 288 of 2018, from the Court of learned Additional District Judge, 1st Court, Paschim Medinipure to the Court of the learned Additional District Judge, Uluberia, Howrah.

Mr. Susenjit Banik, Learned advocate representing the husband/petitioner submits that the wife has filed suit for divorce against the husband taking grounds of cruelty and adultery etc, after abandoning the male child in the custody of petitioner/husband on 17th February, 2017. The marriage was admittedly held between the parties on 20th April, 2001, and the male child was born on 23rd February, 2003.

It is submitted by the petitioner that the husband/petitioner is a practicing advocate of Howrah Court, and he is attached with the profession

for the last 15 years. The opposite party/wife has neither sought for custody of the child, nor has filed any application seeking maintenance from the husband under the provisions of law.

It is thus contended that besides remaining engaged in the profession, the husband/petitioner has to look after the child, after the child was abandoned by the mother/opposite party. In such context, it would be very difficult for the petitioner/husband to participate in the hearing process of matrimonial suit, now pending at Paschim Medinipur Court, after disturbing his profession and also putting his minor son in much distress. Accordingly petitioner/husband has proposed for transfer of this case, now pending at Paschim Medinipur Court to the Court of Additional District Judge, Uluberia, Howrah, what according to petitioner would be much more convenient for him to attend the court in the interest of effective hearing of the matrimonial suit.

Per contra, Mr. Ivan Roy, learned advocate representing the wife/opposite party submits that for some matrimonial differences, the opposite party has been made to stay in her parental house at Debra and she is totally dependant on her parents, and her father is also a senior citizen. Learned advocate for the opposite party contends that it would be equally

difficult for the opposite party/wife to take part in hearing process travelling a distance of more than 65 kilometers away from her paternal house, and that too in Covid situation after incurring the necessary expenses of travelling.

As regards the contention raised against the opposite party/wife, it is strongly refuted by the learned advocate for the opposite party. Learned advocate for the opposite party taking such grounds raises objection against the proposed transfer.

Admittedly, there is no dispute between the parties as regards the solemnization of marriage, held between the parties and the son born out of their wedlock. Further admitted position is that presently the wife is staying in her paternal house at Debra. It is equally true that husband/petitioner is engaged in legal profession and a practicing advocate of Howrah Court.

While making consideration of instant prayer for proposed transfer, the professional loss of petitioner/husband, if there be any, and the consequent harassment of opposite party/wife must be of highest significance. At the same time, it is more important to be taken in view that the wife has no existing income at the moment, but for her sustenance till date, the wife/opposite party has not filed any application seeking maintenance from the

Court.

The present matrimonial suit is at the stage of reconciliation. Paschim Medinipur, where the matrimonial suit has been instituted by wife/opposite party, is about 35 kilometers away from her parental house. Taking into such accounts, if the pending matrimonial suit is transferred to a suitable location, where it is expected to curtail the comparative harassment of the parties to the case, that would not cause any prejudice to either of the parties. Tamluk is a district headquarter of Purba Medinipur, which is effectively and conveniently commutable from Debra (Paternal house of petitioner) having several conveyances to reach over there. More so, Tamluk, Purba Medinipur is well connected from Howrah, not only by train, but also by road, and it may be covered travelling a journey of two and a half hours (approx).

Having considered submissions of both sides and comparative advantages and harassment of the parties, the case is thus transferred to 1st Court, Additional District Judge, Tamluk, Purba Medinipur.

Since expenses are involved to undertake journey from Debra to Tamluk, learned advocate for the petitioner assures the Court that necessary expenses will be borne by the husband/petitioner enabling her to participate on each date of hearing, subject to filing any application by the opposite

party/wife before the learned court below.

Learned Additional District Judge, 1st Court, Paschim Medinipur, is directed to transfer Matrimonial Suit No. 288 of 2018 (CIS No. 150 of 2018) from his file to the Court of learned Additional District Judge, 1st Court, Tamluk, Purba Medinipur within fortnight from the date of communication of this order.

The Court makes it clear that learned Additional District Judge, 1st Court, Tamluk, Purba Medinipur, after receipt of the case record, shall proceed to go-ahead with the proceeding.

Both parties are accordingly directed to ensure their appearance before the transferee Court on 20th January, 2022.

With this observation and direction, the transfer application stands disposed of.

Urgent certified copy of this order and judgment, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with the all necessary formalities.

(Subhasis Dasgupta, J)