

6.
8.07.2021
S.D.

Through Video Conference

**C.O. 1002 of 2021
Mani Das nee Durlabh
Vs.
Sonatan Das**

Mr. Atis Kumar Biswas

...For the Petitioner.

Affidavit of service filed in Court be kept on record.

It reflects that the service has been effected on the opposite party, but none appears on behalf of the opposite party. Hence, the application under Section 24 of the Civil Procedure Code, 1908 is taken up for consideration whereby and whereunder the petitioner has sought for transfer of matrimonial suit No. 297 of 2020 from the Court of learned Additional District Judge, Bongaon to the Court of learned Additional District Judge, Nadia at Krishnagar. The copy of the plaint in the matrimonial suit placed that page 16 reflects that the opposite party/husband has filed a suit being Dissolution of Marriage by a Decree of Divorce under Section 13 of the Hindu Marriage Act, 1955 on the contention that due to misunderstanding and for the reason that the relationship get deteriorated between the parties which might reflect on

their families and societies, the parties of the instant suit out of their free will and own accord separated themselves on 26.9.2019 and started living separately at their respective address mentioned in the Cause Title of the suit and hence the suit was filed by the husband/opposite party for the decree of divorce.

On the contrary, the petitioner/wife has averred that on 26.9.2019, the opposite party threw out the petitioner from her matrimonial home because his wills were not being fulfilled by the present petitioner and the parents of the petitioner became aware of this exploitative marriage on 26.9.2019 who are belonging to an extreme backward class of the society and could not gather any courage to proceed against the opposite party for want of knowledge and money. Therefore, the petitioner is a deserted lady having no source of income of her own to maintain herself and the opposite party is in the knowledge that the petitioner/wife with her child is living in her paternal house at the mercy of her father. Now, the petitioner being an introvert, village lady feels quite uncomfortable to move alone from Nadia to Bongaon due to her travel sickness tendency in public communication system and there is no one to accompany her to move from Nadia to the Court of learned Additional District Judge, Bongaon on

the date of hearing of the matrimonial proceeding. That apart, the petitioner has meager income even to maintain her and her child. Accordingly, the petitioner has sought for transfer of the case to the Court of learned District Judge, Nadia, Krishnagar which is near to her parental house.

Since, the husband/opposite party has filed a suit for divorce, it is legal duty of the husband to even provide alimony *pendente lite* to the petitioner/wife under the provision of Section 13 of Hindu Marriage Act, 1955. As the petitioner is unable to attend Court for, she cannot bear the travelling expenses and since she is not receiving any maintenance from her husband, it would be just and fair to transfer the case from the Court of Additional District Judge, Bongaon to the Court of learned District Judge, Nadia at Krishnagar.

Accordingly, I direct that the matrimonial suit being No. 297 of 2020 pending in the Court of learned Additional District Judge, Bongaon be transferred to the file of learned District Judge, Nadia at Krishnagar.

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 application under Section 24 of the CPC, being C.O. 1002 of 2021 is disposed of without any order as to costs.

(Shivakant Prasad, J.)