

16.08.2021
(S/L-26)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 1240 of 2021

Moumita Seth (Roy)
-Vs-
Amit Kumar Roy

Mr. Biswajit Tiwari,
..... For the Petitioner.

Mr. Debsoumya Basak,
Mr. Viswajit Dasgupta,
..... For the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure.

The wife/respondent of a matrimonial suit being Matrimonial Suit No. 50 of 2021 filed by the husband/opposite party for dissolution of marriage between the parties by a decree of divorce is the petitioner of the present application under Section 24 of the Code of Civil Procedure.

The said matrimonial suit is pending before the Court of learned District Judge, Darjeeling.

The petitioner, by the present application, is praying for withdrawal of the said suit from the Court where it is now pending and for transfer of it to the Court of learned District Judge at Malda on two-fold grounds; firstly, she is a resident of Malda, as such, it would be very difficult for her to travel to the Court of learned District Judge, at

Darjeeling to attend and contest the said matrimonial suit because the distance between these two places is huge; secondly, the other proceeding under Section 125 of the Code of Criminal Procedure as well the proceeding under Domestic Violence Act, 2005 between the parties are pending before the respective Criminal Courts at Malda.

Mr. Debsoumya Basak, learned advocate appearing on behalf of the husband/opposite party files affidavit-in-opposition to the said application, which is taken on record, and vehemently opposes the prayer of the petitioner.

The distance between Darjeeling and Malda is a factor which weighs in favour of the wife/petitioner in allowing her prayer for transfer, that apart, all the proceedings between the parties should be adjudicated at one place to avoid unnecessary expenses and inconvenience of the parties.

Considering the said position, this Court is of the view that the prayer of the petitioner deserves to be allowed.

Let the records of the Matrimonial Suit No. 50 of 2021 be withdrawn from the file of the learned District Judge at Darjeeling and be transferred to the Court of learned District Judge at Malda, who shall either keep the said suit in

his own file or may transfer it to any other Court competent to try and dispose of the said suit under his Judgeship.

The transferee Court shall proceed with the suit from the stage at which it has already reached. The petitioner shall not cause any unnecessary delay in disposal of the suit.

Since affidavit-in-reply has not been filed, any allegations in the affidavit-in-opposition, if there be any, are deemed to have been denied by the petitioner.

C.O. 1240 of 2021 is thus allowed without any order as to costs.

The department is directed to communicate this order immediately to the Court of learned District Judge at Darjeeling.

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.)