

13.07.2021  
tkm/ct 9  
sl no. 55.

**CO 1562 of 2012**  
**(Via Video Conference)**

In Re : Tapasi Gupta

....Petitioner.

Mr. Pinaki Ranjan Mitra

..... For the petitioner.

The application under Section 24 of the Code of Civil Procedure is taken up for consideration.

Mr. Pinaki Ranjan Mitra, learned Advocate for the petitioner/wife submits Mr. Somnath Banerjee, learned Advocate for the opposite party/husband was intimated about the gist of the earlier order.

None appears on behalf of the opposite party/husband in spite of service effected upon the opposite party/husband and no steps have been taken to exchange affidavits despite direction vide order dated 24.9.2012.

In this application, the petitioner-wife has sought for transfer of the matrimonial proceeding being MAT Suit no 189 of 2011 pending in the court of learned Additional District Judge, Durgapur to the Court of learned District Judge, Howrah.

It is submitted on behalf of the petitioner that the petitioner intends to contest the suit, but she has been suffering from acute Arthritis and knee pain and now under the treatment of Dr. N. Dutta, Orthopedic Surgeon and doctor has advised her for complete rest prohibiting

long walking, travelling and staircase riding. As a result, she is not in a position to travel to Durgapur Court to contest the case for divorce. The petitioner has not yet recovered from her ailment and is practically incapacitated to lead normal life. Now the petitioner is residing within the jurisdiction of Howrah in her paternal house with her child who according to the submission of learned Advocate for the petitioner is suffering from mental distress. The petitioner has instituted suit for Maintenance and for arrear maintenance before the learned Civil Judge (Senior Division) First Court, Howrah and the said suit was decreed in favour of the petitioner directing the opposite party to pay maintenance of Rs.3000/- per month from February 2008 and Rs.1500/- from 21.7.1981, but the opposite party has not paid maintenance as directed by the Court and the petitioner has filed execution case being Title Execution Case No. 4 of 2008 and while the petitioner was proceeding with the execution case, opposite party preferred an appeal being F.A.T. 429 of 2009 along with application under Section 5 of Limitation Act for condonation of delay in preferring the appeal and such appeal has been dismissed. So, the opposite party has instituted suit for divorce on the selfsame ground to harass the petitioner.

Having considered the submissions and the contentions of petitioner averred in the application and in the interest of justice, I direct that the matrimonial suit

being M.A.T. No. 189 of 2011 pending in the Court of learned Additional District Judge, Durgapur be transferred to the Court of learned District Judge, Howrah to enable the petitioner/wife to contest the suit.

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

Thus, the application under Section 24 of the CPC, being C.O. 1562 of 2012 is allowed and disposed of with costs.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

**(Shivakant Prasad, J.)**