

08.12.2021
Item No.3
Ct. No.7
CHC

**C.O.1441 of 2021
(Physical Hearing)**

**Pritha Sen
Vs.
Debraj Sen**

Mr. Susanta Pal,
Ms. Jhuma Banerjee
...for the petitioner

Mr. Malay Bhattacharyya
...for the opposite party

This is an application for transfer of Matrimonial Suit being Mat Suit No.70/2021, from the court of learned Additional District Judge, Bishnupur to the learned Additional District Judge at Arambagh, District-Hooghly.

Mr. Susanta Pal, learned advocate representing the petitioner/wife submits that after being deserted by her husband, she has been compelled to stay in her parental house at Arambagh in a most neglected condition. The date of solemnization of marriage of the petitioner is without any controversy on 25th April, 2011. The opposite party/husband is submitted to be a school teacher, now posted at Bishnupur, according to the petitioner.

It is contended by the learned advocate for the petitioner that petitioner is highly apprehensive of further commission of cruelty, and she is fully traumatized and as such there is no chance of reunion of conjugal life.

Petitioner has no income of her own and in the meantime, she has invited three criminal cases in the court of learned Magistrate at Arambagh; one under Section 498A I.P.C. and allied sections, second one under Section 125 Cr.P.C. for maintenance and third one is under D.V. Act against her husband. In such context, learned advocate for the petitioner has proposed the transfer mentioned hereinabove.

As regards the grounds set out in the transfer application, it is submitted by the petitioner that petitioner would be most inconvenient to take part in the hearing of Matrimonial Suit pending against her after undertaking a journey and also incurring huge expenses therefor.

Upon focussing the apprehension of torture and the harassment lightly to be caused, the petitioner has set out the grounds in the transfer application.

Mr. Malay Bhattacharyya, learned advocate representing the opposite party/husband submits that the opposite party/husband works for gain as a teacher of a school at Joypur, which is about 20 to 22 away from Bishnupur. More so, the residential

address of opposite party/husband is at Sonamukhi, which is about 40 k.m. away from Bishnupur.

It is thus, contended by Mr. Bhattacharyya that in the event of proposed transfer of Matrimonial Suit at Bishnupur Court, the opposite party/husband has to attend court proceeding travelling a distance of 100 K.m. away (approx.) from his residential house. More so, since he is a teacher of a school, not only his service will be disturbed, but the students receiving education from the school will also be put to suffer unnecessary harassment. Taking such grounds, Mr. Bhattacharyya proposes for dismissal of this transfer application.

In a case of this nature, the comparative advantages, disadvantages and the harassment of the parties are of highest significance. Without any controversy, the petitioner/wife has been staying in her parental house at Arambagh having no income of her own to maintain herself. For realization of money for her sustenance, apparently there are two litigations already invited excluding the present one, wherein there is scope for granting sufficient money in the form of *alimony pendente lite*, or maintenance or interim monetary assistance under the provisions of the law. That part is left to be decided by the relevant court in appropriate proceedings. The

husband being a teacher now has to attend his school travelling a distance of 60 K.m. (approx.).

Upon consideration of the entire facts and circumstances of this case, if the present pending Matrimonial Suit is transferred to a station, being common to all of them, so far as distance to be covered by both the parties is concerned, 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 any of them. In that view of the matter Burdwan Court, Purba Burdwan is of such a site, which is about 65 K.m. (approx.) way from residence of opposite party/husband having availability of several conveyances to reach over there. More so, the Arambagh is well connected from Burdwan, Purba Burdwan, and it is about 40 K.m. away (approx.) from Burdwan, and this can be easily negotiated undertaking a journey available there.

With this discussion and for the reasons referred above, the transfer application is disposed of directing learned Additional District Judge, Bishnupur to transfer the pending Matrimonial Suit No.70/2021 to the court of learned Additional District Judge, 1st Court, Purba Burdwan, within a period of 15 (fifteen) days from the date of communication of this order.

Both the parties are directed to ensure their respective appearance before the transferee court on 19th January, 2022.

Upon receipt of the case record from the Bishnupur Court, the transferee court will proceed to dispose of the case in accordance with the provisions of the law providing sufficient opportunity of hearing to either of the parties to this case.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)