

24.11.2021
Item No.10
Ct. No.7
CHC

**C.O. 1589 of 2021
(Via Video Conference)**

**Smt. Subhamita Dhar
Vs.
Sri Sudipta Saha**

Mr. Pintu Karar
...for the petitioner

Mr. Pinaki Datta,
Ms. Munmum Tewary,
Ms. Jayashree Saha
...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a Matrimonial Suit No.1535 of 2021 under Section 27(1)(d) of the Special Marriage Act from the court of learned Additional District Judge, Fast Track 1st Court, Barrackpore to the court of learned Additional District Judge, Durgapur.

Mr. Pintu Karar, learned advocate representing petitioner/wife submits that after being deserted by her husband, she has been staying apart from her husband, and under compelling circumstances, she has been staying in her parental house at Durgapur. It would be very difficult on her part to participate in the hearing process after undertaking a journey from

Durgapur to Barrackpore, that too alone in COVID situation and also incurring a huge expenses therefor.

Since parents of the petitioner/wife are senior citizen, it would be rather difficult on their part to accompany the petitioner/wife, while undertaking journey in the interest of ensuring her presence in the Matrimonial Suit brought against her by the husband.

Taking such grounds, the petitioner has proposed for transfer of the Matrimonial Suit to the Durgapur Court, where the petitioner has also instituted another case under D.V. Act, which is pending against the opposite party/husband.

At the very threshold of this case, learned advocate for the opposite party/husband advertizing to page 11, being the affidavit attached with the instant transfer application, submits that though the petitioner/wife is IT professional, now doing work from her home, but in the affidavit, the petitioner has described herself to be a housewife and thus falsified herself, which is absolutely illegal and not tenable under the law.

Learned advocate for the opposite party submits that husband is also IT professional now working at Kolkata and there is another D.V. Act case filed by the mother-in-law of the petitioner against the petitioner/wife with two others, which is pending at the Barrackpore Court.

Learned advocate strongly raises objection against the proposed transfer, as it would be harassive one for the husband to participate in the hearing process, in the event the case is transferred to Durgapur Court.

The situation is very clear, both the fighting couple are IT personnel and they have been performing their duties staying at their respective home.

Learned advocate for the opposite party besides raising objections also submits that the notice of the Matrimonial Suit brought against the wife has been duly served upon the petitioner, while she was performing work from home staying at Newtown, and in that address of Newtown the service has been effected.

Learned advocate for the opposite party produces xerox copy of postal documents in support of his submission on that score. Let the same be taken on record.

While making consideration of the prayer for transfer, the comparative advantages/disadvantages and the consequent harassment of the parties are of highest significance. Since both the fighting couple are IT professionals, and presently performing their job staying at their respective home, and when apparently there is existence of two D.V. Act cases instituted by either of the parties to this case, one at Durgapur and another at Barrackpore Court, independent of

Mat.Suit, the Court is of the view that it is not a good case to allow the proposed transfer for the benefits of the parties.

More so, when the petitioner/wife has already received summons of the Matrimonial Suit in the address of Newtown, as apparently found available in the copy of postal documents produced by the opposite party/husband, while continuing to stay at Newtown, merely upon visualization of a D.V. Act case being instituted by the petitioner/wife against the opposite party/husband and his family members, would not be sufficient enough for the proposed transfer.

The case is thus without any merits. Accordingly, the transfer application stands dismissed without any costs.

(Subhasis Dasgupta, J.)