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C.O. 2403 of 2018
With
I.A. No.CAN 1 of 2019 (Old No.CAN 1345 of 2019)
(application not found in file)

Munmun Mukherjee
Vs.
Gora Chand Mukherjee

Mr. Sankar Prasad Dalapati
Mr. Safik Dewan
Mr. Sourav Mondal
...for the petitioner

Sk. Aptabuddin
Mr. Abdulla Rahamani
...for the respondent

The wife/respondent of the matrimonial suit being Matrimonial Suit No. 41 of 2018 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 at Barasat.

The petitioner by the present application is seeking withdrawal of the said suit from the Court where it is now pending and transfer of it to the Court of the learned District Judge at Howrah on ground that since she is suffering from various ailments it would be very difficult for her to travel from Howrah to the Court of learned District Judge at Barasat and contest the said suit. The

petitioner further alleges that the opposite party is not providing maintenance to her, therefore, financial stringency of the petitioner is the other ground for seeking such withdrawal and transfer of the said suit.

The learned counsel for the opposite party seriously disputes the claim of the petitioner that she is suffering from different ailments and submits that on the contrary, his client is suffering from different diseases.

Heard learned counsel for the parties, perused the materials-on-record.

The claim of the petitioner that she is ill, although has been disputed by the opposite party but the distance between Howrah and Barasat is a relevant factor to decide this application. The said factor sways in favour of the petitioner in allowing her prayer for withdrawal and transfer of the said suit particularly when the record shows that the opposite party had earlier contested the maintenance proceeding initiated by the petitioner under the provisions of Protection of Women from Domestic Violence Act, 2005 before the Howrah Court.

The petitioner, therefore, has made out a case for transfer of the said suit; as such, her prayer deserves to be allowed.

Let the matrimonial suit No.41 of 2018 be withdrawn from the Court of the learned District Judge at Barasat and be transferred to the Court of the learned District Judge at Howrah for trial and disposal.

The learned District Judge at Howrah may either keep the said suit in his own file or may transfer it to any Court under his Judgeship competent to try and dispose of the said suit.

The transferee Court shall proceed with the said suit where it has already reached.

The parties shall co-operate with the learned trial Judge to dispose of the said suit expeditiously.

Since no affidavit-in-opposition to the present application has been filed by the opposite party, allegations made therein are deemed to have been denied by the opposite party.

C.O. 2403 of 2018 is, thus, allowed with the above terms without any order as to costs.

Connected application I.A. No.CAN 1 of 2019 (Old No.CAN 1345 of 2019) appearing in the list but not in the file, if pending, is also disposed of accordingly.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Biswajit Basu, J.)