

14.09.2021
(S/L-25)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 2539 of 2019

Mousumi Das (Kundu) @ Mausumi
-Vs-
Mantu Das

Mr. Kallol Kumar Basu,
Ms. Anubrata Dutta,
Md. Jannat Ul Firdous,
..... For the petitioner.

Mr. Arup Kumar Das,
Mr. Partha Srathi Ghosh,
..... For the Opposite Party.

This is a combined application under
Section 24 of the Code of Civil Procedure and
Article 227 of the Constitution of India.

The petitioner is the respondent of the
Matrimonial Suit No. 2020 of 2017, subsequently
re-numbered as Matrimonial Suit No. 22 of 2018
pending before the 5th Court of learned
Additional District Judge at Barasat, District- 24-
Parganas (North).

The husband/opposite party has filed the
said matrimonial suit praying dissolution of his
marriage with the petitioner by a decree of
divorce.

The petitioner filed an application under
Section 24 of the Code of Civil Procedure before
the learned District Judge, Barasat 24-Parganas
(North) being Misc. Case no. 163 of 2018 for

withdrawal of the aforementioned matrimonial suit from the Court where it is now pending and transfer of it to the Court of learned Additional District Judge at Basirhat, District 24-Parganas (North) under the judgeship of the said learned District Judge.

The learned District Judge by the order No. 5 dated June 10, 2019 has dismissed the said application.

The petitioner by the present application has challenged the said order as well as renewed her prayer for withdrawal and transfer of the said suit.

Mr. Kallol Kumar Basu, learned advocate appearing on behalf of the petitioner submits that the mental health of the petitioner is not in a proper condition, as such, it would not be possible for her to travel from her residence at Basirhat to Barasat Court to contest the said matrimonial suit.

He further submits that the opposite party is a practising advocate of Barasat Court, as such, the petitioner reasonably apprehends that she would face some difficulty in defending the said suit in the said Court.

Mr. Arup Krishna Das, learned advocate appearing on behalf of the opposite party emphatically submits that the said apprehension

of the opposite party has no basis and the ground of illness of the petitioner has been disbelieved by the learned District Judge, therefore, the petitioner is not entitled to the order, as prayed for.

Having heard the learned advocate for the parties and on perusal of the materials-on-record, it appears that the petitioner, in support of her claim of illness, has filed photocopy of the medical prescriptions with the present application which prima facie substantiates her illness.

That apart, when the opposite party is a practising advocate of the Barasat Court where the said suit is now pending, the apprehension of the petitioner of being embarrassed in contesting the said suit cannot be ruled out altogether.

Therefore, for the ends of justice, the Matrimonial suit No. 2020 of 2017, subsequently re-numbered as Matrimonial Suit No. 22 of 2018 be withdrawn from the 5th Court of learned Additional District Judge at Barasat, District 24-Parganas (North) and be transferred to the Court of Learned Additional District Judge, Basirhat, District 24-Parganas (North).

Mr. Das prays that disposal of the suit may be expedited.

Mr. Basu informs this Court that his client has already filed written statement.

The transferee Court is requested to proceed with the said suit from the stage where it has already reached and subject to payment of regular alimony pendente lite, make all endeavour to dispose of the said suit expeditiously in accordance with law.

The parties shall appear before the learned Additional District Judge at Basirhat on September 30, 2021 on communication of the Server Copy of this order, irrespective of transmission of the records of the said Matrimonial Suit to the said Court.

The transferee Court shall act on such communication.

C.O 2539 of 2019 is disposed of with the above terms without any order as to costs.

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.)