

25.11.2021
Item No.2
Ct. No.7
CHC
(disposed)

**C.O. 1955 of 2021
(Via Video Conference)**

**Smt. Sarmistha Sengupta
Vs.
Subhashis Dasgupta**

Ms. Jhuma Sen
...for the petitioner

Mr. Dinabandhu Chowdhury, (in virtual mode)
Mr. Iresh Paul
...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a Matrimonial Suit No.1579 of 2021 along with Misc.Case No.164 of 2021 from the court of learned Additional District Judge, 1st Court, Barasat, North 24 Parganas to the court of learned District Judge, Alipore, South 24 Parganas.

Marriage between the parties was solemnized on 21st November, 2011 under the Special Marriage Act. After being deserted by the husband/opposite party, the petitioner/wife has been staying in her parental house at Belgachia under compelling circumstances for her matrimonial differences with her husband. Admittedly, a male child was born out of the wedlock of the petitioner on 9th February, 2018, who is now four years old, and a school going child.

Ms. Jhuma Sen, learned advocate representing the petitioner/wife submits that petitioner/wife is a technocrat, now working as Lecturer of Calcutta Technical College, while the opposite party/husband is submitted to be a Revenue Officer, now posted at Barrackpore.

In support of the prayer for transfer the petitioner has stated that it would be very difficult on her part to participate in the hearing process of the Matrimonial Suit brought against her by the husband, now pending at Barasat Court travelling a considerable distance, and after putting his minor son to a much distress. It is also not possible for the petitioner to be accompanied by her old aged parents, and as such, she has proposed for the transfer taking the grounds mentioned hereinabove, thereby focussing her personal inconvenience and harassment likely to be suffered by the petitioner/wife.

Per contra, Mr. Dinabandhu Chowdhury, learned advocate representing opposite party/husband submits that proposed transfer is very purposive one simply to cause delay in the Matrimonial proceeding pending at Barasat Court. The opposite party/husband has already filed an application for visitation right in respect of his minor son, which is registered as Misc.Case No.164 of 2021, and because of the pendency of the transfer application, the relevant

application for the visitation right could not be disposed of resulting in serious prejudice to the valuable rights of the opposite party/husband.

In such conspectus, the opposite party/husband raises objections against the proposed transfer. However, Mr. Chowdhury in all his candidness submits that the case may be transferred to Sealdah Court, where the comparative advantages, disadvantages and harassment would be at a lesser degree. The comparative advantages, disadvantages and consequent harassment of the parties are of highest significance in this case, while making consideration of the prayer for transfer under Section 24 of the C.P.C.

In view of the submission disclosed by Mr. Chowdhury conceding transfer to Sealdah Court, the Court is of the view that Sealdah Court is such a place which can be easily commuted not only by the petitioner, but also by the opposite party/husband, because there are several conveyances available to reach at Sealdah Court.

The revisional application is thus disposed of directing learned Additional District Judge, 1st Court, Barasat to transfer the Matrimonial Suit No.1579 of 2021 along with Misc.Case No.164 of 2021 to the court of learned Additional District Judge, 1st Court, Sealdah within fortnight from the date of communication of this order.

Connected application, if there be any, stands consequently disposed of.

The learned transferee Court is directed to proceed with the pending Matrimonial Suit after disposing of the Misc.Case seeking visitation right expeditiously, providing sufficient opportunities to either of the parties to this case, but without granting unnecessary adjournment, unless it is extremely unavoidable.

Both the parties are directed to ensure their respective appearance before the learned transferee Court on 18th January, 2022.

Petitioner is directed to make communication of this order to the learned court below.

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.)