

20.12.2021
Item No.16
Ct. No.7
AGM/RKB
(disposed of)

**C.O. 1975 of 2021
(Physical Hearing)**

**Parichita Banerjee
Vs.
Sri Argha Bhattacharya**

Mr. Arnab Roy, Adv.
Mr. Styam Mukherjee, Adv.
...for the petitioner

Mr. Mr. Saptarshi Dutt
...for the opposite party

This is an application for transfer under Section 24 of the Code of Civil Procedure, seeking transfer of Matrimonial Suit No.993 of 2021 for judicial separation under Section 23 of Special Marriage Act from the Court of learned Additional District Fast Track 2nd Court at Howrah to the Court of learned 1st Additional District Judge, Barrackpore, North 24 Parganas.

Mr. Arnab Roy, learned advocate representing the petitioner/wife submits that the marriage between the parties was solemnized on 19th January, 2021. The Matrimonial life could not be continued for their matrimonial differences. The wife has been staying apart from her husband under compelling circumstances since 17th July, 2021 at Khardah in her parental house. In the meantime, the

petitioner/wife has invited to other litigations against her husband under Section 125 Cr.P.C and under Section 498A I.P.C., and allied sections, and both these litigations are pending at Barrackpore Court.

As regards the grounds set out in the transfer application, the distance, harassment, multiplicity of litigations and the financial constraints are focused.

Per contra, Mr. Saptarshi Dutt, learned advocate for the opposite party/husband submits that it would be very difficult for the opposite party/husband to take part in the hearing process of pending matrimonial suit, in the event of the case being transferred from Howrah Court to Barrackpore Court. More so, the opposite party/husband is posted outside Calcutta, for his present engagement in private sector. It is also contended by the opposite party/husband that the opposite party has to maintain his old and ailing parents. The harassment is thus focused in the submission of the learned advocate for the petitioner.

During the course of further submission, learned advocate for the opposite party candidly submits that in the event of selection of neutral site/station for adjudication of matrimonial suit, that would have been the best choice, and that would not

cause any prejudice to either of the parties to this case.

The comparative advantages, disadvantages and harassment of the parties are of significant consideration in connection with the prayer for transfer application. When learned advocate for the opposite party/husband proposes for selection of neutral site for the trial of the matrimonial suit, the Court is of the view that if the transfer application is transferred to Sealdah Court, where it is expected that the comparative advantages, disadvantages and harassment of the parties may be curtailed to considerable degree, and that would not cause any prejudice in any manner whatsoever to either of the parties. Sealdah Court is situated at convenient location, which may be commuted either of the parties to this case, for availability of several conveyances to reach over there.

The transfer application is thus disposed of, directing learned Additional District Judge, Fast Track 2nd Court, at Howrah to transfer Matrimonial Suit 993 of 2021, to learned Additional District Judge, 2nd Court, Sealdah, North Parganas, within two weeks after Winter Vacation of the District Judiciary.

Both the parties are accordingly directed to ensure their respective appearance before the transferee court on 31st January, 2022.

The transferee court after receipt of the case record from the transferor court shall proceed to dispose of the matrimonial suit, providing sufficient opportunity of hearing to either of the parties to the case.

With the above observations/directions, the transfer application stands disposed of.

The connected application, if any, is also disposed of.

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.)