

(17)
17.08.2021
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

(Via Video Conference)

CO No. 4218 of 2019

**Smt. Tumpa Gorai
-versus-
Sri Sandip Garai**

Mr. Kunal Ganguly,

... for the petitioner.

This is an application under Section 24 of the Code of Civil Procedure.

Mr. Kunal Ganguly, learned advocate appears on behalf of the petitioner and submits that in terms of the order dated March 26, 2021, the learned advocate representing the opposite party in the Court below has been served, he files affidavit-of-service to the said effect, which is taken on record.

None appears on behalf of the opposite party to oppose the prayer of the petitioner in spite of service.

The wife/respondent of the matrimonial suit being Matrimonial Suit No. 49/602 of 2019 filed by the husband/opposite party for restitution of conjugal rights is the petitioner of the present application.

The said matrimonial suit is pending before the 2nd Court of learned Additional District Judge, Purba Bardhaman.

The petitioner by the present application is seeking withdrawal of the said suit from the Court where it is now pending and for transfer of it to any Court competent to try and

dispose of the said suit under the judgeship of the learned District Judge at Asansol, Paschim Bardhaman on the ground that she is residing at Jemeri, Paschim Bardhaman, her paternal house with her minor daughter, as such, it would be very difficult for her to travel a distance of almost 125 km to attend the Court of learned Additional District Judge, Purba Bardhaman and contest the said matrimonial suit.

Another ground on which such withdrawal and transfer has been prayed for is that pendency of maintenance proceeding under Section 125 Cr.P.C., the proceeding under Section 12 of the Protection of Women from Domestic Violence Act, 2005 as well as the criminal proceeding under Section 498A IPC between the parties before the respective criminal Courts at Asansol.

The distance between Paschim Bardhaman to Purba Bardhaman is certainly a factor to be considered in dealing with the prayer of the petitioner and the said factor weighs in favour of the petitioner in allowing her prayer. That apart, all pending proceedings between the parties are required to be brought at one place to avoid unnecessary expenses and inconvenience of the parties.

This Court, therefore, is of the opinion that the prayer of the petitioner deserves to be allowed.

Let the records of the Matrimonial Suit No. 49/602 of 2019 be withdrawn from the 2nd Court of the learned Additional District Judge, Purba Bardhaman and be transferred to the Court of learned District Judge, Paschim Bardhaman at Asansol for trial and disposal.

The learned District Judge, Paschim Bardhaman at Asansol shall either keep the said suit in his own file or may transfer it to any Court competent to try and dispose of the said suit under his judgeship.

The transferee Court shall proceed with the suit from the stage at which it has already reached.

CO 4218 of 2019 is thus allowed without any order as to costs.

The department is directed to communicate this order immediately to the 2nd Court of the learned Additional District Judge, Purba Bardhaman.

Urgent photostat certified copy of this order, if applied for, be supplied to the party subject to compliance of all requisite formalities.

(Biswajit Basu, J.)