

02.03.2021
tkm/ct 9
sl no. 36

CO 1618 of 2020

**Sulagna Chatterjee
Vs
Jhotirmoy Bhattacharya**

Mr. Biswanath Chatterjee
Mr. Sobhan Pathak

..... For the petitioner

Mr. Subhojit Saha
Mr. Sudipta Ghosh

..... For the OP

Learned advocate for the opposite party at the outset drawn my attention to the caption of the application for transfer of a Matrimonial Suit for divorce under section 27 of the Special Marriage Act 1954 filed against the petitioner being Matrimonial Suit no. 654 of 2019 sought to be transferred by the petitioner/wife.

It appears that the application has been filed under the Scheme of Article 227 of the Constitution of India. The application ought to be under the provision of section 24 of the Code of Civil Procedure. Accordingly, leave is granted to rectify the caption of the application. However, this court is of the opinion that the caption is not a factor. It is substance which has to be taken into consideration in doing justice.

The petitioner has sought for transfer of the matrimonial suit inter alia on the ground that the petitioner being a lady will face difficulty in travelling down to district court, Kalyani at Nadia all alone to contest the

matrimonial suit proceeding as the case is pending in the court of Additional District Judge, FTC, Kalyani, Nadia.

It has been pointed out on behalf of the opposite party that the husband-opposite party is an assistant professor employed in IIT, Kharagpur. In so far as the transfer as prayed for on behalf of the petitioner is concerned, learned advocate for the opposite party has conceded to such prayer with only contention that since the opposite party has not been given opportunity to refute the allegation as made in the application, the allegations levelled against the opposite party in the application made on behalf of the petitioner be treated as denied and disputed categorically.

Let Matrimonial Suit no. 654 of 2019 (Jhotirmoy Bhattacharya vs. Sulagna Chatterjee nee Bhattacharya) pending in the court of learned Additional District Judge, FTC, Kalyani, Nadia be transferred to the file of learned District Judge, Alipore.

On receipt of the case record the learned District Judge Alipore, South 24 Pargans will be at liberty to assign the case to any Additional District Judge at Alipore, South 24 Parganas. The transferee court shall take all endeavour to expedite the disposal of the case on receipt of the case record.

Let copy of the order be sent to the learned District Judge, Alipore and Additional District Judge, FTC,

Kalyani, Nadia and to the learned District Judge, Nadia at Krishnagar for information and taking necessary action.

With the above observation CO 1618 of 2020 is disposed of.

(Shivakant Prasad, J.)