

S/L 8 & 9
29.9.2022
Court No.652
SD

CO 41 of 2022
With
CO 42 of 2022

Smt. Tania Roy (Adhikary)
Vs.
Shri Surajit Adhikary

Mr. Gautam Chakraborty
Mr. Kartik Kumar Roy

...for the Petitioner.

Mr. Probal Mukherjee
Mr. Rohit Das
Ms. Kishwar Rahman
Mr. Pranit Biswas

...for the Opposite Party.

C.O. 41 of 2022:-

Affidavit-in-opposition and affidavit-in-reply filed by the parties in Court today be kept with the record.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Matrimonial Suit No.1765 of 2019 pending before the learned District Judge, Barasat to the court of learned District Judge, Jalpaiguri.

The petitioner contended that the petitioner is the married wife of the opposite party and they are blessed with a child who is now aged about four years and is under the custody of the mother petitioner.

The aforesaid matrimonial suit has been filed by the opposite party in order to punish the wife to compel her to travel a distance of about 700 kms. from her residence Nagrakata.

The petitioner further submits that she is an unemployed lady and she has not been paid maintenance by her husband. She further submits that in order to reach Barasat Court, petitioner has to avail first by bus from Nagrakata to Malbazar and then by train from Malbazar to Sealdah which at least takes one night journey, which is very much inconvenient for the petitioner. Moreover, there is no other person in her family to accompany her for such long journey. Accordingly, petitioner has prayed for aforesaid transfer.

The opposite party submits that his father has been diagnosed with cancer and the opposite party is required to take care of his treatment and well-being as also regularly take him for his treatment to a hospital at New Town and if the instant prayer made by the petitioner is allowed then the opposite party would be compelled to travel long distance frequently to attend the matrimonial suit in Jalpaiguri Court which would lead to immense hardship to both the opposite party and his father and his other family members apart from badly disrupting the child's well-being and development.

Having considered the aforesaid facts and circumstances, it appears to me that it would be convenient to both the parties if the present suit is transferred to the court of learned District Judge at Malda which situates more or less at the mid point between the two places.

In view of the above, CO 41 of 2022 is disposed of directing the learned District Judge, North 24-Parganas at Barasat to withdraw the Matrimonial Suit No.1765 of 2019 from the court of learned District Judge, Barasat and to transmit the same to the Court of learned District Judge, Malda within a period of three weeks from the date of communication of the order.

The transferee court shall give fresh notice intimating the next date of hearing upon both the parties before taking up for further proceeding of the said suit.

C.O. 42 of 2022:-

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Misc. Case No.194 of 2019 pending before the learned District and Sessions Judge, Barasat to the court of learned District Judge, Jalpaiguri.

Having considered the aforesaid facts and circumstances, it appears to me it would be convenient to both the parties if the present suit is transferred to the court of learned District Judge at Malda which situates more or less at the mid point between the two places.

In view of the above, CO 42 of 2022 is disposed of with the following direction that the learned District Judge, North 24-Parganas at Barasat shall withdraw the Misc. Case No.194 of 2019 from the court of learned District Judge, Barasat and to transmit the same to the Court of learned District Judge, Malda within a period of three weeks from the date of communication of the order.

The transferee court shall give fresh notice intimating the next date of hearing upon both the parties before taking up further proceeding of the said suit.

Department is directed to serve a copy of this order to the learned District Judge, North 24-Parganas, Barasat as well as the learned District Judge, Malda.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Ajoy Kumar Mukherjee, J.)