

23-06-2022
Item no.21
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO. No.43 of 2022
Susmita Bera (Chakraborty)
-vs-
Dinesh Bera

Mr. Abhijit Kumar Adhya
Mr. Kalyan Ghosh ...for the petitioner

Mr. Prithvijoy Das
Ms. Pratyusha Mukherjee ...for the opposite party

Learned counsel appearing for the opposite party-husband submits that his client is desirous of leading happy marital life with the petitioner and as such learned counsel suggests that the matter be referred to a mediator for amicable settlement of the dispute between them.

However, learned counsel for the petitioner-wife submits that his client is not agreeable to go to the mediator.

In view of the above, I think that the revisional application under section 24 CPC should be heard.

Accordingly, the application is taken up for hearing.

I have heard learned counsels for the appearing parties.

It is stated by the petitioner that her marriage with the opposite party was solemnized on May 18, 2015 according to the Hindu rites and customs. Their marriage was duly consummated; and out of their wedlock, a male child was born on March 3, 2016.

It is alleged by the petitioner that some time after

her marriage, her husband subjected her to cruelty – both physically and mentally by various ways. In such situation, she had to leave her matrimonial home on December 10, 2019 and started living at her parental home.

The petitioner has filed a maintenance case under section 125 CrPC against her husband and this case being ACM No.633 of 2021 is pending in the court of learned Judicial Magistrate, 5th Court at Alipore. Another case being AC No.2172 of 2021 under section 12 of the Protection of Women from Domestic Violence Act, 2005 filed by her is pending in the court of learned Judicial Magistrate, 4th Court at Alipore.

The petitioner came to know that the opposite party filed a matrimonial suit being Mat. Suit No.266 of 2021 in the court of Additional District Judge, 1st Court at Kakdwip under section 9 of the Hindu Marriage Act, 1955 seeking restitution of conjugal rights.

The petitioner submits that it will be hardship for her to attend the court at Kadwip to participate in the matrimonial proceeding.

In the aforesaid circumstances, the petitioner seeks transfer of the matrimonial suit from the concerned court of Kakdwip to the learned District Judge, Alipore.

What I find from the pleadings and materials on record, a maintenance case under section 125 CrPC brought by the petitioner is pending in the court of learned Judicial Magistrate, 5th Court at Alipore and another case under section 12 of the Protection of Women from Domestic Violence Act, 2005 filed by her is pending in the court of Judicial Magistrate, 4th Court at Alipore. This shows that the opposite party has to appear before the courts of Judicial Magistrate at Alipore to participate in the hearings

of the aforesaid two cases.

Having heard learned counsels for the parties and considering the balance of convenience and inconvenience of the parties, I feel it would be wise to withdraw the matrimonial suit being No.266 of 2021 from the court of learned Additional District Judge, 1st Court at Kakdwip to the jurisdictional court at Alipore.

Accordingly, the revisional application is allowed.

Let the matrimonial suit being Mat. Suit No.266 of 2021 be withdrawn from the court of learned Additional District Judge, 1st Court at Kakdwip and be transferred to the court of learned District Judge, South 24 Parganas at Alipore for disposal.

Learned District Judge, South 24 Parganas is at liberty either to dispose of the said suit himself or transfer the suit to any competent court for disposal.

The learned Additional District Judge, Kakdwip shall transmit the case record of Mat Suit No.266 of 2021 to learned District Judge, South 24 Parganas at Alipore immediately after receipt of a copy of this order.

The department is directed to communicate the order to the learned courts below immediately.

CO No.43 of 2022 thus stands disposed of.

[Rabindranath Samanta, J]

