

05.04.2022
Ct. 21
D/L 18

C.O. 56 of 2022
With
IA No. CAN/1/2022

Smt. Kausani Chakraborty (Basu)
-Vs-
Sri Souvik Basu

Mr. Joy Chakraborty,
Mr. Subhendu Roy Chowdhury
Mr. Sandip Dindu

... for the petitioner

Learned advocate appears for the petitioner but none appears from the side of the opposite party when the matter is called for.

The petitioner files affidavit of service dated 28.1.2022 along with undelivered envelope. Let the same be retained with the record. However, from the previous order sheet it appears Mr. Sanjay Mukherjee learned advocate had appeared on behalf of the opposite party.

The application under Section 24 of the Code of Civil Procedure is taken up for hearing.

By filing the application under Section 24 of the Code of Civil Procedure, the petitioner/ wife has prayed for transfer of Matrimonial Suit No. 1832 of 2020 for restitution of conjugal rights file under section 22 of the

Special Marriage Act, 1954 from the Court of learned 3rd Additional District Judge at Alipore to the Court of learned District Judge at Howrah.

It has been contended that some serious matrimonial discord cropped up between the parties and due to which the petitioner became subject to physical assault and torture and ultimately she was driven away from the matrimonial home along with the minor daughter and since then she is under the shelter of her parents.

That she has been compelled to file criminal case under section 498A/ 406/34 IPC read with section 34 of Dowry Prohibition Act against the opposite party at Chatterjeehat Police Station. For shelter, maintenance and for financial assistance she has filed another case under Protection of Women from Domestic Violence Act, 2005 and which is pending before CJM, Howrah. She has also filed a suit for dissolution of marriage under section 27 of Special Marriage Act, 1954 being no.679 of 2020 before the learned District Judge, Howrah. The opposite party has filed the suit for restitution of conjugal rights at Alipore Court, just to harass the petitioner after she has filed the divorce suit.

The cause title shows at present the petitioner is residing at her parent house under Chatterjeehat P.S under the district of Howrah, whereas the opposite party appears to be a resident of New Alipore, Kolkata.

The fact the opposite party being a resident of New Alipore, Kolkata, it would not be inconvenient for him to attend District Court at Howrah, the distance of which is about ten kilometers from his residence and when he has to attend the District Court of Howrah in connection of other three cases pending against him.

Therefore, let the Matrimonial Suit No. 1832 of 2020 be withdrawn from learned 3rd Additional District Judge at Alipore and be transferred to the Court of learned District Judge at Howrah. The learned District Judge may keep the case in his/ her own file or transfer the same to any other Court having jurisdiction to try and dispose of the same or transfer the case to the Court where Mat Suit No.350 of 2020 filed by the petitioner for dissolution of marriage is pending.

The learned 3rd Additional District Judge at Alipore shall transfer the records of Matrimonial Suit No. 1832 of 2020 to the Court of the learned District Judge at Howrah within a period of 30 days from the date of communication of this order

The parties shall appear before the learned District Judge at Howrah on 02.05.2022 irrespective of transfer of the records of the said title suit but only on the basis of sever copy of this order.

The learned 3rd Additional District Judge at Alipore, shall act on such communication.

The transferee Court shall proceed to dispose of the said suit from the stage at which it has already reached.

The transferee Court is further requested to expedite disposal of the said title suit in accordance with law.

Accordingly, **C.O. 56 of 2022** is disposed of.

Connected application, if any, also stands disposed of.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Kesang Doma Bhutia, J.)