

Ct. **06.6**
No. **2022**
10

5
akb

C.O. 66 of 2022

Kamala Biswas

-Versus-

Dhiman Bose

Mr. Subir Banerjee
Ms. Taniya Bhowmick

...For the Petitioner

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a Matrimonial Suit pending in a Court at Alipore, South 24-Parganas to the Court of the learned District Judge, Malda.

It appears that despite service of notice upon him, there is no representation on the part of the opposite party.

The petitioner Kamala Biswas states that her marriage with the opposite party Dhiman Bose was solemnized on April 19, 2018 according to Hindu Rites and Customs. After her marriage she started residing with the opposite party as his wife and their marriage was duly consummated.

The petitioner complains that sometime after her marriage, the opposite party inflicted torture on her both physically and mentally. Unable to bear with such torture she having no other alternative had to leave her matrimonial home. Now she is residing at her parental home at 80, Paikaradanga, Chhatia, P.O. Ashrampur, Police Station – Bamangola, District – Malda.

Having no source of income, the petitioner, in order sustain her livelihood, filed an application under Section 125 of the Code of Criminal Procedure in the Court of learned Chief Judicial Magistrate, Malda, seeking maintenance allowance from her husband.

After she brought the proceeding for maintenance allowance, the opposite party brought a matrimonial suit, being Mat. Suit No. 3059 of 2021 in the Court of the learned District Judge, South 24-Parganas at Alipore seeking dissolution of marriage between them under Section 13(1)(IA) of the Hindu Marriage Act, 1955.

Learned Lawyer appearing for the petitioner submits that to attend the Court at Alipore, the petitioner will have to travel more than 400 kms. If the petitioner is to travel such distance on all the dates of hearing, she would face the immense hardship. On this score, the learned Lawyer submits that the aforesaid matrimonial suit needs to be transferred to the Court under which the petitioner now resides.

As stated above, the opposite party, despite service of notice upon him, did not prefer to contest the instant proceeding. Under such circumstance, this Court finds that the facts and circumstances as stated in the application remain uncontroverted on the part of the opposite party.

Having considered the grounds of transfer and in exercise of power under Section 24 of the Code of Civil Procedure, I feel that the instant application should be allowed.

Accordingly, this application under Section 24 of the Code of Civil Procedure is allowed. There shall be no order as to costs.

Let the Matrimonial Suit, being Mat. Suit No. 3059 of 2021 (Mr. Dhiman Bose Vs. Mrs. Kamala @

Mousumi Biswas @ Mrs. Kamala @ Mousumi Bose) pending in the Court of Learned Additional District Judge, 16th Court at Alipore, South 24-Parganas be withdrawn and transferred to the Court of learned District Judge, Malda for disposal.

The learned District Judge, 16th Court, Alipore is directed to transmit the case record to the learned District Judge at Malda forthwith after receipt of the copy of this order.

The learned District Judge at Malda may dispose of the said matrimonial suit either himself or transfer the suit to any other learned Additional Judge for disposal as expeditiously as possible.

With the aforesaid direction the application under Section 24 of the Code of Civil Procedure is disposed of.

Let a copy of this order be communicated to both the learned Courts below for information and compliance.

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

(Rabindranath Samanta, J.)