

10.11.2022
107
Ct. no. 652
sb

C.O. 116 of 2022

Pinki Kumari Shaw
Vs.
Suman Kumar Shaw

Mr. Ranajay Chatterjee
Mr. Kushi Prasun Chatterjee
...for the petitioner

In spite of service, the opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of the Misc. Case no. 38 of 2021 presently pending before the court of learned District Judge, Suri, Birbhum to the court of learned District Judge, Alipore, South 24 parganas.

The petitioner states that the opposite party has filed the said Misc. case under Section 25 of the Guardians and Wards Act, 1980 before the court of learned District Judge, Suri, Birbhum. The petitioner alleged that she was subjected to physical and mental torture by her husband and her in laws, demanding dowry of Rs. 3 lakhs for investing in his business and when refused they become furious and physically assaulted the petitioner brutally and had driven her from her matrimonial home along with her two minor children. Since then the petitioner is living with her

widowed mother and children. The petitioner has initiated a proceeding under Section 125 of the Code of Criminal Procedure for maintenance before the Alipore court and the opposite party has appeared before the Alipore court to oppose the said prayer. The petitioner also filed another proceeding under Section 12 of the Protection of Women from Domestic Violence Act before the court of learned Additional Chief Judicial Magistrate, Alipore and in the said case also the opposite party has appeared and contesting.

It is alleged by the petitioner that only to harass the petitioner, he has filed the instant Misc. case in the court of Suri against the petitioner, which is about 250 kilometres away from the residence of the petitioner and takes 6 hours break journey. She has no other family member to accompany her. It is further alleged that opposite party has threatened her with dire consequences if she goes to defend her case at Suri and in such circumstances it is submitted that she is facing lot of difficulties to travel such long distance to attend her case at Suri court. Accordingly, she has prayed for aforesaid transfer.

Having considered the fact and circumstances of the case and that the distance involved between two places is about 250 kilometres and that the petitioner is bringing up two children and that two other proceedings initiated by the petitioner is pending before the Alipore

court where the opposite party would be required to attend and that the petitioner is an unemployed lady and in such circumstances the inconvenience caused to a female in travelling to another place for pursuing a matrimonial suit, in socio-economic situation prevailing in country, is much more than inconvenience caused to the husband, the prayer for transfer of matrimonial suit as sought for by the wife/petitioner is allowed.

Learned District Judge, Suri, Birbhum is directed to withdraw the Mat suit no. 38 of 2021 pending before the court of learned District Judge, Suri, Birbhum and to transmit the same to the court of learned District Judge, Alipore within a period of three weeks from the date of communication of the order.

The transferee court shall issue fresh notice upon both the parties intimating next date of hearing before proceeding further with the present suit.

The department is directed to send a copy of the order to the learned District Judge, Suri, Birbhum and Learned Additional District Judge, Alipore, South 24 parganas.

Accordingly, C.O. 116 of 2022 is disposed of.

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

(Ajoy Kumar Mukherjee, J.)