

14-06-2022
Item no.35
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO. No.119 of 2022

Sisir Chatterjee

-vs-

Monalisa Banerjee (Chatterjee)

Mr. Subhabrata Bandyopadhyay ...for the petitioner

Mr. Soumik Ganguli

Mr. Sourat Nandy ...for the opposite party

The instant revision arises out of an application under section 24 of the Code of Civil Procedure, 1908 seeking transfer of a matrimonial suit filed by the opposite party-wife from the court of learned District Judge, Bankura to the court of learned District Judge, Paschim Bardhaman at Asansol.

To put succinctly, it is stated by the petitioner that his marriage with the opposite party was solemnized on August 16, 2012 according to the Hindu rites and customs. After their marriage, they lived together as husband-wife and their marriage was duly consummated. Out of their wedlock, a female child was born who at the time of filing of the application was about seven years old.

It is alleged by the petitioner that after the opposite party gave birth to child, her behaviour towards the petitioner became changed abruptly. She abused him in filthy languages and threatened him to dissolve their marriage. In the month of December 2020, suddenly the opposite party left her matrimonial home. The petitioner made repeated requests to her to come back to his home, but in vain.

It is stated by the petitioner that after receiving the summons, he came to know that the opposite party has filed a matrimonial suit in the court of learned District Judge, Bankura for dissolution of their marriage. The petitioner submits that since his childhood he was affected with poliomyelites and had bilateral foot drop. On November 22, 2021, he had undergone surgery in a hospital and discharged from the hospital on November 25, 2021. After surgery, it has been very difficult for him to move a long distance for long hours. In such situation, it will be hardship for him to travel long distance to attend the matrimonial suit before the court at Bankura. Under such circumstances, the petitioner prays for transfer of the said matrimonial suit from the concerned court of Bankura to the court of learned District Judge, Paschim Bardhaman at Asansol.

Learned counsel for the petitioner submits that the medical documents annexed to the application will reveal that after the petitioner had undergone surgery, it will be very difficult for him to attend the court at Bankura to contest the matrimonial suit. On such score, learned counsel urges that the suit needs to be transferred to the court of the learned District Judge, Paschim Bardhaman.

Learned counsel for the opposite party submits that the averments made in the application indicate that the petitioner is affected with poliomyelites since his childhood and this shows that he has adapted himself to the movement of his daily chores. Learned counsel for the opposite party further submits that the opposite party has also filed a maintenance case under section 125 CrPC and this proceeding is pending in the court of learned Judicial Magistrate, Bankura and the petitioner has to appear before learned Judicial Magistrate to contest the maintenance proceeding. In such conspectus of circumstances, learned

counsel for the opposite party opposes the prayer for transfer made by the petitioner.

As it now stands, the maintenance proceeding under section 125 CrPC brought by the opposite party-wife against the petitioner-husband is pending in a court of a learned Judicial Magistrate at Bankura. That being so, the petitioner shall have to appear before the said court at Bankura to contest the proceeding.

Having heard learned counsels appearing for both the parties and considering the materials on record, I feel that it would not be justified to transfer the matrimonial suit filed by the opposite party from the concerned court of Bakura to the court of Paschim Bardhaman.

Accordingly, the revisional application brought by the petitioner is dismissed.

CO No.119 of 2022 is thus disposed of. No order as to costs.

[Rabindranath Samanta, J]

