

08.07.2022
Item No. 17
Crt.No.14
FB/b.r.

C.O. 161 of 2022

Smt. Subhamita Dhar
-vs-
Sri Sudipta Saha

Mr. Utpal Mitra
Md. Sajid
Mr. Kalyan Bhaumik
Mr. Abirlal Chakraborty
..... for the petitioner.

Mr. Pinaki Datta
Ms. Munmun Tweary
Ms. Jayashree Saha
..... for the opposite party.

The opposite party files affidavit-in-opposition and the petitioner files affidavit-in-reply. Let the affidavits be kept on record.

By filing this revisional application, the petitioner for the second time seeks transfer of a matrimonial suit from the Court of the learned Additional District Judge, 3rd Court, Barrackpore to the Court of the learned Additional District Judge, Durgapur.

To put precisely, the petitioner states that her marriage with the opposite party was solemnized on 19th November, 2019. The marriage between them was duly consummated but no child was born out of their wedlock.

It is alleged by the petitioner that the opposite party inflicted torture upon her. On the allegation of torture upon her she lodged an FIR at Durgapur Police Station

and the FIR was registered as Durgapur P.S. Case No. 571 of 2021 dated 10th December, 2021 under Sections 498A/323/406/307/34 of the Indian Penal Code. Besides, she filed an application under Section 12 of the Protection of Women from Domestic Violence Act in the Court of the learned Additional Chief Judicial Magistrate, Durgapur. Both the criminal case under Sections 498A/323/406/307/34 IPC and the proceedings under the Protection of Women from Domestic Violence Act are pending in the concerned Court at Durgapur. The petitioner states that the opposite party has filed a Matrimonial Suit being No. 1535 of 2021 against her and the matrimonial suit is pending in the Court of the learned Additional District Judge, 3rd Court at Barrackpore. However, the petitioner submits that previously she brought a revisional application being CO 1589 of 2021 seeking transfer of the matrimonial suit, but the revisional application was dismissed by a learned Single Bench. The petitioner states that she is now residing at her parental home at Durgapur. It will be hardship for her to travel a long distance to attend the matrimonial proceeding before the Court of learned Additional District Judge at Barrackpore. Hence, the prayer.

The opposite party in his affidavit-in-opposition denies all the allegations levelled against him by the

petitioner. It is the assertion of the opposite party that the petitioner resides at her parental home at New Town and because of this, the learned Single Bench dismissed the revisional application brought by the petitioner.

Learned Lawyer appearing for the petitioner submits that the petitioner presently resides at her parental home at Durgapur which is their ancestral house. Learned Lawyer points out that the criminal case brought by the petitioner and the proceeding brought under the Protection of Women from Domestic Violence Act are pending in the concerned Court at Durgapur. Learned lawyer submits that the distance between the parental home of the petitioner and the Court at Barrackpore is about 173 kilometer. According to learned lawyer, these circumstances justify transfer of the matrimonial suit.

Per contra, learned lawyer appearing for the opposite party vehemently submits that the petitioner is still residing at her parental home at New Town. By referring to a copy of a deed annexed to the affidavit-in-opposition learned lawyer submits that the father of the petitioner had purchased a flat at New Town and the petitioner still resides there. On such score, learned lawyer submits that this revisional application is also liable to be dismissed.

A reading of the order passed by a learned Single Bench in C.O. 1589 of 2021 shows that the learned Single Judge dismissed the revisional application recording observation that the petitioner resides at New Town.

After going through the documents filed by both the parties, it appears that the petitioner's father has a flat at New Town. Therefore, it cannot be ruled out that she may also reside at her father's house at New Town.

Under such circumstances, I feel that the instant revisional application is also liable to be dismissed.

Accordingly, the revisional application is dismissed. Order of stay, if any, stands vacated.

No order as to costs.

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

(Rabindranath Samanta, J.)