

07.06.2022
Sl. No.17
KS

C.O. 207 of 2022

Smt. Shreepa Banerjee
-Vs.-
Sayak Ganguly

Ms. Pritha Bhaumik
Mr. Sananda Bhattacharya
.....For the Petitioner
Ms. Manaswita Mukherjee
.....For the Opposite Party

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

This is an application filed under Section 24 of the Code of Civil Procedure seeking transfer of the matrimonial suit from the Court of Learned Additional District Judge at Barrackpore to the Court of Learned Additional District Judge, Fast Track Court, Kalyani, Nadia.

It is stated by the petitioner, Shreepa Banerjee that her marriage with the opposite party, Sayak Ganguly was solemnized on 5th June, 2016 according to Special Marriage Act, 1954. Subsequently, a social marriage took place on 9th December, 2016 according to the Hindu Rites and Customs.

After solemnization of the marriage the petitioner started living with the opposite party as wife at 168, Rajani Babu Road, Kanchrapara, District – North 24 Parganas and their marriage was duly consummated. Out of their wedlock no child was born.

It is alleged by the petitioner that owing to mental torture meted out to her she had to leave her matrimonial home and started living at her parental home.

The opposite party has filed a Matrimonial Suit being No.M.A.T. 1667 of 2021 against the petitioner under Section 27 of the Special Marriage Act in the Court of the Learned Additional District Judge at Barrackpore seeking dissolution of marriage between them. But the petitioner is always desirous to have a happy marital life with the opposite party. In order to reconcile their marital relationship, the petitioner has brought a Matrimonial Suit being No.668 of 2021 under Section 22 of the Special Marriage Act against the opposite party in the Court of the Learned Additional District Judge at Kalyani for restitution of conjugal rights.

The petitioner is the only child of her parents and her father is an aged person. He suffers from various age related diseases. The petitioner has to take care of her father and has

to make arrangement for his medical treatment. Considering the distance between Kalyani and Barrackpore and the inconveniences faced by the petitioner, the petitioner submits that the matrimonial suit filed by the opposite party may be transferred to the Court of the Learned Additional District Judge, Fast Track Court, Kalyani, Nadia.

Learned lawyer appearing for the opposite party submits that the petitioner is an I.T. professional and it will not be inconvenient for her to attend the Court at Barrackpore where the opposite party filed the suit prior to institution of the suit filed by the petitioner.

Per contra, the learned lawyer for the petitioner submits that as the Matrimonial Suit for restitution of conjugal rights is pending in the Court of Learned Additional District Judge, Fast Track Court, Kalyani, Nadia, it will be conducive to the interest of justice if both two suits are heard by the same Court at Kalyani.

It appears from the affidavit in opposition that the petitioner entered appearance in the matrimonial suit pending in the Court at Barrackpore and she filed written statement to contest suit on 10th February, 2022. Besides filing the written

statement she filed an application under Section 36 of the Special Marriage Act seeking alimony.

What I find, trial of the matrimonial suit being No.1667 of 2021 has not yet commenced. Admittedly, the Matrimonial Suit being No.668 of 2021 filed by the petitioner seeking restitution of conjugal rights is pending in the Court of the Learned Additional District Judge, Fast Track Court, Kalyani, Nadia. As it is learnt, no endeavour has been made on the part of the opposite party to get this matrimonial suit for restitution of conjugal rights transferred to Barrackpore Court.

Having heard learned counsels appearing for the parties and considering the facts and circumstances as disclosed in the application and in exercise of the power under Section 24 of the Code of Civil Procedure, I feel that the Matrimonial Suit No.1667 of 2021 pending in the Court of Learned Additional District Judge at Barrackpore should be withdrawn and transferred to the Court of Learned Additional District Judge, Fast Track Court, Kalyani, Nadia.

Accordingly, it is ordered that the Matrimonial Suit No.1667 of 2021 pending in the Court of Additional District, F.T.C. – IV, Barrackpore, North 24 Parganas be withdrawn and the suit be transferred to the Court of the Learned

Additional District Judge, Fast Track Court, Kalyani, Nadia
for disposal.

Learned Additional District Judge, F.T.C. – IV,
Barrackpore, North 24 Parganas is directed to transmit the
case records to the Learned transferee court forthwith on
receipt of copy of the order.

Let a copy of this order be communicated to both the
Learned Courts below.

The revisional application is disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be
supplied to the parties expeditiously on compliance of usual
legal formalities.

(Rabindranath Samanta, J.)