

08.07.2022
Item No. 16
Crt.No.14
FB/b.r.

C.O. 190 of 2021

Armita Dutta (Paul)
-vs-
Santosh Dutta

Mr. Sourav Sen
Ms. Sayani Bhattacharya
Ms. A. Chakraborty
..... for the petitioner.

Mr. Dipanjan Datta
Mr. Chitra Bhanu Gupta
..... for the opposite party.

The petitioner files affidavit-in-reply today. Let it be kept with the record.

Now the revision arising out of an application under Section 24 of the Code of Civil Procedure is taken up for hearing.

I have heard learned Counsels appearing for the parties.

The petitioner in the revisional application seeks transfer of a matrimonial suit from the Court of the learned District Judge, North 24-Parganas at Barasat to the Court of the learned Additional District Judge, Ranaghat, Nadia.

To put succinctly, it is the case of the petitioner, Armita Dutta (Paul) that her marriage with the opposite party Santosh Dutta was solemnized on 26th of January, 2015. The marriage between them was duly

consummated. Out of her wedlock with the opposite party she gave birth to a male child named, Shriyan Dutta on 10th December, 2017.

It is alleged by the petitioner that soon after her marriage, the opposite party subjected her to cruelty by various ways. Ultimately she had to leave her matrimonial home and started residing at her parental home.

The petitioner states that after she came to her parental home, she filed an application under Section 12 of the Protection of Women from Domestic Violence Act registered as Misc. Case No. 214 of 2020 in the Court of the learned Additional Chief Judicial Magistrate at Ranaghat. This proceeding is still pending in the Court of learned Additional Chief Judicial Magistrate at Ranaghat.

After getting a summons the petitioner came to know that the opposite party filed a matrimonial suit being No. 946 of 2020 in the Court of the learned District Judge, North-24 Parganas at Barasat against her seeking dissolution of marriage. The petitioner in her affidavit-in-reply states that the distance between her parental home and the Court of Barasat is nearly 55 kilometers. The petitioner states that it will be hardship for her to appear before the Court at Barasat to attend the matrimonial proceeding travelling the aforesaid long distance keeping her child alone at parental home. Under such

circumstances, the petitioner seeks transfer of the matrimonial suit.

The opposite party in his affidavit-in-opposition denies the allegations as levelled by the petitioner against him. The opposite party submits that the petitioner left her matrimonial home on her own and deserting him.

Learned lawyer for the petitioner submits that a proceeding under Section 12 of the Protection of Women from Domestic Violence Act that is pending in the Court of the learned A.C.J.M., Ranaghat and the opposite party has to appear before the Court to participate in the proceeding. Learned lawyer submits that it would be hardship for a woman to travel the long distance as above to attend the matrimonial proceeding before the Court at Barasat. On such score learned lawyer submits that the matrimonial suit may be transferred to the concerned Court at Ranaghat.

Learned lawyer appearing for the opposite party submits that his client refutes all the allegation of torture upon her. Learned lawyer submits that the petitioner herself left her matrimonial home on her own deserting the opposite party. The opposite party made appeal to the petitioner to come back, but to no effect. Learned Lawyer submits that if the Court thinks it fit that the matrimonial suit needs to be transferred, the suit may be transferred to the concerned Court at Kalyani.

What I find from the materials on record, a proceeding under Section 12 of the Protection of Women from Domestic Violence Act brought by the petitioner is pending in the Court of Learned A.C.J.M., Ranaghat. This indicates that the opposite party has to appear before the Court of the learned A.C.J.M. to attend the aforesaid proceeding. It is not in dispute that the distance between the parental home of the petitioner and the Court at Barasat is about 55 kilometers. The child of the petitioner is too minor. In a number of decisions rendered by the Hon'ble Apex Court as well as by this Hon'ble Court, it has been held that the inconvenience of the wife shall be taken as a paramount consideration while disposing of a transfer application.

Having heard the learned Counsels appearing for the parties and considering the balance of convenience and inconvenience of the parties, I feel that it would be wise to withdraw the aforesaid matrimonial suit from the Court of learned District Judge, North 24-Parganas at Barasat and transfer the suit to the learned Additional District Judge at Ranaghat for disposal.

In view of the above, the revisional application is allowed.

Let the matrimonial suit being Mat. Suit No. 946 of 2020 be withdrawn from the Court of the learned District Judge, North 24 Parganas at Barasat and the suit be

transferred to the Court of the learned Additional District Judge, Ranaghat for disposal.

Learned District Judge, North 24-Parganas at Barasat is requested to transmit the case record to the learned Additional District Judge, Ranaghat immediately after receipt of the copy of this order forthwith.

The department is directed to communicate this order to both the learned Courts below.

With the aforesaid direction, C.O. 190 of 2021 stands disposed of.

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.)