

Ct. 28.7
No. 14 2022
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C.O. 206 of 2021

**Smt. Sima Ruida
-Versus-
Sri Panchanan Ruidas**

**Mr. Susanta Pal
Mr. Pradip Kumar Patra** **...For the Petitioner**

**Mr. Ankit Agarwala
Ms. Jayeta Kundu Mitra
Mr. Rabind Basu** **...For the Opposite Party**

Supplementary affidavit filed on behalf the petitioner be kept on record.

Learned Lawyer appearing for the opposite party files a copy of an order dated May 27, 2022 issued by the Transport Directorate, Government of West Bengal, for transferring of the opposite party to Transport Directorate, Banga Bhawan, New Delhi. Let it be kept on record.

Learned Lawyer for the opposite party submits that though his client has not filed any affidavit-in-opposition, the allegations made in the revisional application shall be deemed to have been denied by his client.

Now the revisioinal application under Section 24 of the Code of Civil Procedure is taken up for hearing.

I have heard learned Lawyer appearing for the parties.

The petitioner, Smt. Sima Ruidas seeks transfer of matrimonial suit from the Court of the learned Additional District Judge, Bishnupur, to the Court of the learned Additional District Judge, Khatra, District – Bankura.

Admittedly, the petitioner was married to the

opposite party on August 24, 2008. It is not in dispute that out of her wedlock with the opposite party, the petitioner gave birth to two male children, namely, Surya Suidas and Rudra Ruidas born on 30.10.2010 and 08.03.2015.

It is alleged by the petitioner that soon after she gave birth to the second child, the opposite party subjected her to cruelty both physically and mentally. Unable to bear with such torture, she had to leave her matrimonial home and started residing at her parental home at Village- Khatra (Simlapal Road), Post Office & Police Station – Khatra, District – Bankura. Father of the petitioner died two years back. Her mother is an aged woman and is suffering from various age-related ailments.

The petitioner states that the opposite party has brought a matrimonial suit, being No. 138 of 2019 against her seeking dissolution of marriage in the Court of the learned Additional District Judge, Bishnupur. The distance between her parental home and the Court at Bishnupur is about 75 kms. Since her children are minor and her mother is aged and suffering from various ailments, it will be hardship, if she has to appear before the Court at Bishnupur alone keeping her minor children at her parental home. Hence, the prayer.

On the other hand learned Lawyer appearing for the opposite party by drawing my attention to the copy of the transfer order dated May 27, 2022 submits that the opposite party has now been transferred to Banga Bhawan, New Delhi to serve under the Transport Directorate there. He further submits that the parents of the opposite party reside

at Bishnupur. Under such circumstances, if the suit proceeds in the Court of the learned Additional District Judge at Bishnupur, it will be convenient for the opposite party.

Admittedly, the petitioner is now residing at her parental home. She has two minor children and they stay with her at her parental home. As it appears from the revisional application supported by affidavits, the father of the petitioner is now dead and her mother is suffering from various age-related ailments.

In a catena of decisions rendered by the Hon'ble Apex Court and this Hon'ble High Court, it has been held that inconvenience of wife should be of paramount consideration while disposing of an application under Section 24 of the Code of Civil Procedure.

However, learned Lawyer for the opposite party by citing the decision in the case of *Neelam Bhatia Vs. Satbir Singh Bhatia*, reported in (2004) 13 SCC 436 submits that the Court instead of transferring a matrimonial suit may direct husband to bear the travelling expenses of the wife to participate in the matrimonial proceeding.

Having heard the learned Lawyer appearing for the parties and considering the balance of convenience and inconvenience of the parties I feel that it will be wise to withdraw the aforesaid matrimonial suit from the Court of the learned Additional District Judge, Bishnupur and transfer the suit to the Court of the learned Additional District Judge, Khatra, District - Bankura.

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

Let the Matrimonial Suit, being No. 138 of 2019 be withdrawn from the Court of the learned Additional District Judge, Bishnupur and the suit be transferred to the Court of the learned Additional District Judge, Khatra, District - Bankura for disposal.

The learned Additional District Judge, Bishnupur is directed to transmit the case record of the matrimonial suit to the transferee Court immediately after receipt of a copy of the order.

With the aforesaid direction, C.O. 206 of 2021 stands disposed of.

There will, however, be no order as to costs.

Let a copy of this order be communicated to both the Courts below for information and compliance.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis upon compliance of all formalities.

(Rabindranath Samanta, J.)