

S/L 99
14.11.2022
Court No.652
SD

CO 304 of 2022

Smt.Pamali Ghosh (Das)
Vs.
Dr. Subrata Das

Mr. P.C. Das
Ms. Soma Chowdhury (Bandhu)

...for the Petitioner.

Mr. Susenjit Banik

...for the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner seeking transfer of Matrimonial Suit No.3377 of 2018 along with Misc. Case No.26 of 2019 from the Court of learned Additional District Judge, at Alipore, South 24-Parganas to the Court of learned Additional District Judge, at Serampore, Hooghly.

The petitioner has contended that the marriage between the petitioner and the opposite party was solemnized on February 1, 2013. They are also blessed with twin children who are presently in the custody of the petitioner. The petitioner's present residence is at Serampore situated at a distance of about 30 kms. from the Court at Alipore.

Petitioner alleged after marriage the petitioner was facing tremendous mental torture by the husband for which she lodged a complain before the Serampore Police Station in the year 2018. The father of the petitioner is aged about

70 years and the petitioner is maintaining her aged father and the said two children who were born due to said wedlock.

It is submitted that the petitioner has also initiated a proceeding under Section 125 of the Code of Criminal Procedure before the Serampore Court. Another Criminal proceeding under section 498A IPC initiated on the basis of the complain made by petitioner is also pending before Serampore court. Now to drag the said proceeding opposite party/husband has filed the aforesaid Matrimonial suit at Alipore court in order to harass her in an unlawful manner. Initially opposite party/ husband's suit was suit for restitution of conjugal rights, subsequently he has converted it to a suit for divorce. Petitioner is not in a position to attend Alipore court due to financial difficulties and also there is none to look after her children. Accordingly, the petitioner has prayed for aforesaid transfer as it is very much inconvenient for her to travel from Serampore to the Alipore with the said children.

Learned counsel appearing on behalf of the opposite party/husband raised vehement objection contending that in order to frustrate the order passed by the court on January 22, 2020 by which opposite party's visitation right was allowed, present application has been filed. Furthermore, the opposite party/husband is paying maintenance regularly and that the petitioner is a dance teacher having her own earning and also having business, it is not at all difficult for

her to attend the said proceeding at Alipore and accordingly prayed for dismissal of the aforesaid application.

Having considered the aforesaid facts and circumstances of the case and that the petitioner has two minor children in her custody at her residence at Serampore and two other proceedings have been initiated before the Serampore Court where the opposite party would be required to attend and that in such cases the convenience of the petitioner is of paramount importance, and that inconvenience caused to a female in travelling to Alipore from Serampore with two children for pursuing said proceeding is much more than the inconveniences caused to husband/opposite party, I find that this is a fit case where prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Alipore is hereby directed to withdraw the Matrimonial Suit No.3377 of 2018 along with Misc. Case No.26 of 2019 from the Court of learned Additional District Judge, at Alipore, South 24-Parganas and to transmit the same to the Court of learned District Judge, Hooghly at Chinsurah within a period of three weeks from the date of communication of the order. The learned District Judge, Hooghly in turn will transfer the same to the court of learned Additional District Judge, Serampore having jurisdiction within a period of two weeks thereafter.

The transferee court shall give fresh notice intimating the next date of hearing upon both the parties before taking up for further proceeding of the suit.

Department is directed to serve a copy of this order to the learned District Judge, South 24-Parganas at Alipore as well as the learned District Judge, Hooghly at Chinsurah.

With these observations, C.O. 304 of 2022 is disposed of.

There will be no order as to costs.

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

(Ajoy Kumar Mukherjee, J.)