

Ct. 23.8
No. 2022
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C.O. 385 of 2020
With
C.O. 1201 of 2022
Somdatta Halder
-Versus-
Nilotpal Ghosh

Mr. Debasish Mitra **...For the Petitioner**

Mr. Saunak Bhattacharya
Mr. Debanjan Das **...For the Opposite Party**

C.O. 1201 of 2022

Learned Lawyer appearing for the petitioner submits that her client does not wish to proceed with the instant revisional application. As such, learned Lawyer submits that the revisional application be dismissed for non-prosecution.

As the petitioner does not want to proceed with the revisional application, the revisional application may be dismissed for non-prosecution.

Accordingly, the revisional application is dismissed for non-prosecution.

C.O. 385 of 2020

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a matrimonial suit from the Court of the learned Additional District Judge, 3rd Court, Alipore to the Court of the learned District Judge, North 24-Parganast at Barasat.

It is stated by the petitioner that she was married to the opposite party on 6th February 2016 and their marriage was registered under the Special Marriage Act, 1954. After her marriage she lived with the opposite party as his wife.

The petitioner complains that after her marriage, the opposite party subjected her to cruelty both physically and mentally. Unable to bear such torture, she left her matrimonial home and started residing at her parental home at DC 9/11, Shastribagan, Baguihati Joramandir, Payel Apartment, Kolkata – 700 059. She alleges that after she started residing at her parental home, the opposite party gave out threat to her over telephone. On the allegations of threat, she lodged complaint with the Baguihati Police Station.

The petitioner alleges that on perpetrating violence upon her, she brought a proceeding under Section 12 of the Protection of Women from Domestic Violence Act, 2005 before the Court of the learned Chief Judicial Magistrate, Barasat. Presently, the said proceeding is pending in the Court of the learned Judicial Magistrate, 2nd Court, Barasat.

The petitioner complains that when the proceeding under 12 of the Protection of Women from Domestic Violence Act was posted for hearing on 2nd January 2020, the opposite party and his mother were present in the said Court and they threatened her that if she did not withdraw the proceeding, she would face dire consequence.

The petitioner states that the opposite party has brought a matrimonial suit, being No. 3318 of 2019 in the Court of the learned District Judge, 3rd Court, Alipore. The petitioner submits that because of the aforesaid proceeding under the Domestic Violence Act pending in the Court at Barasat, it will be justified if the matrimonial suit is transferred to the learned District Judge, North 24-Parganas at Barasat. Hence, the prayer.

The opposite party in his affidavit-in-opposition denies the averments and allegations as made in the revisional application. The opposite party states that after obtaining the information under the Right to Information Act, he has come to learn that the petitioner is now posted at Alipore, New Administrative Building, as an Auditor of Cooperative Societies. The opposite party submits that the petitioner has to come on a regular basis at Alipore and as such there will be no inconvenience if she has to appear before the Court at Alipore to participate in the matrimonial proceeding. On such ground, the opposite party seeks dismissal of the revisional application.

Admittedly, the petitioner was married to the opposite party on 6th February 2016 under the Special Marriage Act, 1954. It is not in dispute that the marriage between them was consummated. As the averments in the revisional application suggest, owing to unavoidable circumstances, the petitioner left her matrimonial home and started residing at her parental home at the address at indicated above. The only ground upon which the petitioner seeks transfer of the matrimonial suit is that a proceeding under Section 12 of the Protection of Women from Domestic Violence Act brought against the opposite party is pending in the Court of a learned Judicial Magistrate at Barasat.

I do not find any other ground in the revisional application, which demonstrate that the petitioner faces inconvenience or hardship to appear before the Court at Alipore.

As it appears from an information furnished by the Assistant Director of Cooperative Audit, South 24-Parganas Range to the opposite party, the petitioner Smt.

Somdatta Halder on 8th September 2020 was posted at Alipore, as an Auditor of Cooperative Societies. However, learned Lawyer appearing for the petitioner by handing over a photocopy of joining order dated 29th December, 2020 submits that the petitioner has joined as Senior Auditor, Grade-II, in the Directorate of Cooperative Audit, 11-A, Mirza Galib Street, Kolkata.

What it transpires from the documents annexed to the affidavit-in-opposition and the photocopy of the order dated 29th December 2020, the petitioner on 8th September, 2020 was posted at Alipore as an Auditor of Cooperative Societies. However, on her transfer vide order dated 29th December 2020, she is now posted at 11-A, Mirza Galib Street, Kolkata. That being the factual scenario, it goes without any say that the petitioner has to come to Kolkata to attend her office in order to discharge her official duties.

In view of the above, the ground as taken by the petitioner, does not appear to be satisfactory to allow the revisional application in her favour.

Therefore, the revisional application is dismissed.

There shall be no order as to costs.

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

(*Rabindranath Samanta, J.*)