

11.11.2022
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Ct. no. 652
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C.O. 331 of 2022

Smt. Sangita Dey @ Sangita De
Vs.
Sri Abhijit Kumar Dey

Mr. Debasish Kar
Mr. Subhojit Chowdhury
Mr. Arka Tilak Bhadra ...for the petitioner

Mr. Dhananjay Banerjee
Ms. S. Das
Ms. O. Ghosh ...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of the Matrimonial suit no. 231 of 2019 presently pending before the court of learned Additional District Judge, Kalna to the court of learned Additional District Judge, Barrackpore.

The petitioner contended that the petitioner is the legally married wife of the opposite party and the opposite party has filed the aforesaid suit for dissolution of marriage on 25.7.2019, which is now pending before the court of learned Additional District Judge, Kalna. The petitioner finds difficulties in contesting the suit by going to the Kalna court as she presently resides at Icchapore, which is within the jurisdiction of Barrackpore court. It takes about 3 to 4 hours to reach Kalna court from her present residence at Icchapore and there is no direct route from Icchapore in order to reach

Kalna. The petitioner further submits that she has already initiated four proceedings, one under Section 125 of the Code of Criminal Procedure, another under the provision of Protection of Women from Domestic Violence Act seeking maintenance, another application filed by the petitioner for custody of their minor child and she has also initiated one criminal case against the opposite party under Section 498A of the Indian Penal Code, being Noapara police station case no. 7 of 2018 dated 8.1.2018. All these four proceeding are pending before the Barrackpore court, where the opposite party has appeared and contesting. The petitioner is very much eager to contest the aforesaid case but due to financial constraints she is not in a position to attend the said proceeding at Kalna and as such she has prayed for aforesaid transfer.

Learned counsel for the opposite party submits that the petitioner presently resides at his flat at Barrackpore, though her permanent residence is at Kalna, Purba Burdwan. Accordingly, the opposite party has opposed the said prayer for transfer.

Having considered the fact and circumstances of the case and that other four proceedings are pending before the court at Barrackpore where the opposite party/husband would be required to attend and that the petitioner is an unemployed lady and also considering the distance involved between the two places and that in

such cases where the husband has sought for dissolution of marriage, convenience of the petitioner/wife is of paramount importance, I find that this is a fit case where the prayer made by the petitioner is allowed.

Learned District Judge, Purba Burdwan is directed to withdraw the Mat suit no. 231 of 2019 pending before the court of learned District Judge, Kalna and to transmit the same to the court of learned District Judge, North 24 parganas within a period of three weeks from the date of communication of the order.

Learned District Judge, North 24 parganas at Barasat in turn will transfer the same to the court of learned Additional District Judge, Barrackpore, having jurisdiction, to try the suit, within three weeks thereafter.

The transferee court shall issue fresh notice upon both the parties intimating next date of hearing before proceeding further with the present suit.

The department is directed to send a copy of the order to the learned District Judge, North 24 parganas and Learned District Judge, Purba Burdwan.

Accordingly, C.O. 331 of 2022 is disposed of.

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

(Ajoy Kumar Mukherjee, J.)