

05.04.2022
Ct. 21
D/L 9

C.O. 378 of 2022

Priyanka Ghosh

Vs.

Sumanta Garai

Mr. Suryasarathi Basu

... for the petitioner

Mr. Tonmoy Chowdhury,
Ms. Ritoprita Ghosh,

...for the opposite party

Parties are represented by their respective
Advocates.

The petitioner files affidavit of service along with
postal receipts and track report showing due service, let
it be retained in the record.

The petitioner wife has filed this present
application under Section 24 of C.P.C. seeking transfer
of Matrimonial Suit No. 190 of 2021 under Section 22 of
Special Marriage Act filed by her husband for restitution
of conjugal rights which is pending in the Court of
learned Additional District Judge, 2nd Court
Serampore, Hooghly to the Court of District Judge,
Purulia.

It has been contended that the petitioner/ wife
being subjected to torture over the demand of dowry she
had to leave her matrimonial home and take shelter in

her parental house situated at Purulia. She has been residing at her parental house since 11.06.2020.

After returning to her paternal home she had to initiate a criminal case under Section 9(B) and 37 (2) (C) of the Protection of Women from Domestic Violence Act, 2005 against her husband. Such case being registered as Misc. Case No. 78 of 2020 is pending before the Court of learned Chief Judicial Magistrate, Purulia.

It has also been contended that at the time of marriage the petitioner was working as a Field Junior Engineer (Civil) under Sarva Siksha Mission, Purulia but due to pressure created by her husband and in-laws she was compelled to resign from the job on 15th November, 2018. That she has no independent source of income to bear litigation cost and travel expenses. It would be hardship on her part to travel all the way from Purulia. To attend the Court in Serampore, Hooghly she has to travel via Howrah Station. She apprehends her life may be in danger if she has to attend Court at Serampore.

It has also contended that the opposite party is an I.T. professional and has to attend the Court at Purulia in connection with the Criminal Case pending against him.

On the other hand learned Advocate for the opposite party prays for rejection of the application and alleged that there is no merit.

Prima facie, it is seen that the wife is at present unemployed and residing at her parental house at Purulia and it would be hardship on her part to attend the Court at Serampore all the way from Purulia via Howrah Station. On the other hand it appears the opposite party has to attend the Court of learned CJM, Purulia, in connection of a Criminal Case under Domestic Violence Act, pending against him.

Thus, considering the convenience and inconvenience of the parties and to do equity the Matrimonial Suit No. 190 of 2021 is withdrawn from the Court of learned 2nd Additional District Judge, at Serampore, Hooghly and transferred to the Court of learned District Judge, Purulia.

The learned Additional District Judge, 2nd Court at Serampore, Hooghly shall transfer the records of Mat. Suit No. 190 of 2021 to the Court of learned District Judge, Purulia within a period of 30 days from the date of communication of this order.

The parties shall appear before the learned District Judge, Purulia on 18.05.2022 irrespective of transfer of the records of the said title suit but only on the basis of server copy of this order.

Learned District Judge, Purulia, shall act on such communication. Learned District Judge, Purulia may hear the matter himself/herself or may transfer the

case to such Court who has jurisdiction to try and dispose of the same.

The transferee Court shall proceed to dispose of the said suit from the stage at which it has already reached.

The transferee Court is further requested to expedite disposal of the said title suit in accordance with law.

Accordingly, **C.O. 378 of 2022 is disposed of.**

Connected application, if any, is disposed of.

Interim order, if any, stands discharged.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(**Kesang Doma Bhutia, J.**)