

08.06.2022
Sl. No.2
KS

C.O. 535 of 2020
Sulekha Hazra
-Vs.-
Prakash Hazra

Mr. Sabir Ahmed
Mr. S. Sarkar
Mr. A. Saha

.....For the Petitioner

Affidavit of service filed by the petitioner be kept on record.

It appears that despite service of notice upon the opposite party, there is no representation on his behalf.

This is an application filed under Section 24 of the Code of Civil Procedure seeking transfer of a matrimonial suit from the Court of the learned District Judge, Murshidabad at Berhampore to a Court at Bolpur, Birbhum.

The petitioner, Sulekha Hazra states that she was married to the opposite party, Prakash Hazra on 19th Magh 1417 B.S. according to the Hindu Rites and Customs. After solemnization of the marriage with the opposite party, she started living with him as his wife and their marriage was duly consummated. Out of her wedlock with the opposite party, the petitioner has given birth to two children - one daughter and one son.

After she gave birth to her first child, the opposite party started torturing her mentally and physically on various reasons including

on the demand for dowry. The torture inflicted upon her increased to such an extent that the petitioner having no other alternative had to leave her matrimonial home on 13th June, 2017. To eke out their livelihood, the petitioner has filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 in the Court of the Learned Judicial Magistrate, Bolpur, Birbhum. In the application under the Protection of Women from Domestic Violence Act, the learned Judicial Magistrate, 2nd Court, Bolpur directed the opposite party to pay Rs.1,000/- per month each to the petitioner and her two children as an interim maintenance allowance.

After the petitioner brought the aforesaid proceeding seeking maintenance allowance, the opposite party, in order to harass her filed an application under Section 9 of the Hindu Marriage Act in the Court of the learned District Judge, Murshidabad seeking restitution of conjugal rights.

After she was driven out of her matrimonial home, the petitioner has been passing her days with distress. Her father is not financially sound to maintain her. The distance between Bolpur and Berhampore, Murshidabad is about 150 Kilometer. Under such circumstances, it will be hardship for the petitioner to travel long distance to attend the Court of the learned District Judge, Murshidabad at Berhampore. So, she prays that the aforesaid

matrimonial suit be withdrawn and transferred to the concerned Court at Bolpur.

Learned counsel appearing for the petitioner submits that owing to financial incapacity and the long distance between Berhampore and Bolpur, the petitioner would face difficulties if she is to attend the Court of the learned District Judge, Berhampore on the dates fixed for hearing. Learned counsel submits that the circumstances as projected by the petitioner are justifiable to allow the prayer as made by the petitioner.

In the absence of the opposite party despite service of notice upon him, the facts and circumstances as narrated in the application stand un-controverted. What I find, the petitioner has filed an application under Section 12 of the Protection of Women from Domestic Violence Act in the Court of the Learned A.C.J.M., Bolpur seeking maintenance allowance and the application is now pending in the Court of the Learned Judicial Magistrate, 2nd Court. As the documents on record reveal, the Learned Magistrate has passed the order directing the opposite party to pay maintenance allowance of Rs.1,000/- per month to each of the petitioner and her two children.

Considering all the attending circumstances and the distance between the Court at Bolpur and the Court of the learned District Judge at Berhampore, Murshidabad, I feel that it will be wise if the

aforesaid matrimonial suit is withdrawn and transferred to the concerned Court at Bolpur.

In view of the above, the application is allowed.

Let the Matrimonial Suit No.125 of 2019 under Section 9 of the Hindu Marriage Act pending in the Court of the Learned District Judge, Murshidabad be withdrawn and the suit be transferred to the Court of the learned Additional District Judge, Bolpur, Birbhum for disposal.

The learned District Judge, Murshidabad is requested to transmit the case records of the matrimonial suit to the learned transferee Court forthwith on receipt of copy of this order.

Let a copy of this order be communicated to both the learned Courts below.

In view of the above, revisional application stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Rabindranath Samanta, J.)