

Ct. 08.6
No. 2022
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C.O. 576 of 2022
Smt. Bharati Mukherjee
-Versus-
Sri Shikharendra Mukherjee

Mr. Dyutiman Banerjee

...For the Petitioner

Affidavit-of-service filed by the petitioner in Court today be kept on record.

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

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a Matrimonial Suit from a Court of the learned Additional District Judge, Barrackpore, North 24-Parganas to the Court of the learned Additional District Judge, Bolpur, Birbhum.

It is stated by the petitioner that her marriage with the opposite party, Shikharendra Mukherjee was solemnized on February 8, 2012 according to Hindu Rites and Customs at her parental home. Subsequently, their marriage was registered on July 21, 2012.

After solemnization of marriage, the petitioner after going to her matrimonial home noticed that her husband was habituated in taking alcohol and he was regular drunkard. He used to return home late at night in drunken condition and inflict torture upon the petitioner physically and mentally. After the torture increased upon her, the petitioner lodged a complaint at Titagarh Police Station in the year 2017. However, after her husband and other family members prayed for unconditional apology to the petitioner, the matter then ended in settlement.

Even thereafter, the torture upon the petitioner did not subside. Ultimately, on March 25, 2021, the opposite party turned the petitioner out of his house after inflicting severe torture upon her. Having no other alternative, the petitioner had to take shelter at her parental home and now she is residing there.

All on a sudden, the petitioner after getting summons from a Court of Barrackpore came to know that the opposite party filed an application under Section 9 of the Hindu Marriage Act in the Court of the learned Additional District Judge at Barrackpore for restitution of conjugal rights and the application was registered as matrimonial suit being No. 1391 of 2021.

The distance between the place where the petitioner resides and the Court at Barrackpore is nearly 175 kms. It will be hardship for the petitioner to travel 175 kms. having no direct railway communication to attend the matrimonial proceeding before the Court at Barrackpore. Her aged parents are not in a position to accompany her to go to Barrackpore Court.

Be it noted that in order to sustain her livelihood the petitioner has filed an application under Section 125 of the Criminal Procedure Code in the Court of the learned A.C.J.M. at Bolpur for maintenance allowance and the application has been registered as Misc. Case No. 114 of 2021.

As narrated by the petitioner, she prays that the aforesaid matrimonial suit be withdrawn and transferred from the Court at Barrackpore to the concerned Court at Bolpur, Birbhum.

In the absence of the opposite party despite service of notice upon him, the facts and circumstances as narrated by the petitioner in her application stand uncontroverted.

It is the fact that the distance between Bolpur and Barrackpore is nearly 175 kms. The opposite party needs to appear before the Court at Bolpur to contest the maintenance case filed by the petitioner.

Having considered all the attending circumstances as revealed in the application supported by affidavit, I feel that it will be just if the aforesaid matrimonial suit is withdrawn and transferred to the concerned learned Court at Bolpur, Birbhum.

In view of the above, the application is allowed.

Let the matrimonial suit, being No. 1391 of 2021 be withdrawn from the concerned Court of the learned Additional District Judge at Barrackpore and be transferred to the Court of the learned Additional District Judge, Bolpur, Birbhum for disposal.

The concerned learned Additional District Judge, Barrackpore is requested to transmit the case record of the matrimonial suit forthwith on a receipt of copy of this order.

The transferee Court is requested to dispose of the matrimonial suit as expeditiously as possible.

With the aforesaid direction application under Section 24 of the Code of Civil Procedure is disposed of.

There will, however, be no order as to costs.

Let a copy of this order be communicated to both the learned Courts below for information and compliance.

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

(Rabindranath Samanta, J.)