

25.04.2022
SL No. 9
Court No. 21
Sk & ali

C.O. 674 of 2022
Subhas Chandra Gayen
Vs
Shefali Gayen (Mridha)

Mr. Ranjit Kumar Roy
.....For the Petitioner

Ms. Papiya Chattopadhyay
...for the opposite party.

Mr. Ranjit Kumar Roy, learned advocate appears on behalf of the petitioner and Ms. Papiya Chattopadhyay, learned advocate appears for the opposite party.

The matter is taken up for hearing.

Learned advocate appearing for the petitioner submits both the petitioner and the opposite party are permanent residents of Village Parashmoni under P.S. Gosaba, 24-Parganas (South). The petitioner is the headmaster of the Phakhiraly Pre-Primary School under P.S.Gosaba. The opposite party/wife though living separately has her own business at Village Parash Moni, but in order to harass the petitioner and with malafide intention has filed Matrimonial Suit under Section 9 of the Hindu Marriage Act, in the District Court at Barasat, showing the address of her sister her present address.

Therefore, he prays the Matrimonial Suit may be transferred to the Court of Alipore from the District Court of Barasat under which jurisdiction both the petitioner and the opposite party reside.

On the other hand, the learned advocate for the opposite party/wife submits that the opposite party resides within the district of South 24-Parganas, but she for safety of her life has to file the MAT Suit at Barasat.

Learned advocate for the opposite party further submits that the opposite party has filed a proceeding under Sections 498A, 325, 406 and 34 of the Indian Penal Code against the petitioner which is pending before the Court of the learned Chief Judicial Magistrate at Alipore.

It is settled law the Court within whose jurisdiction marriage between the parties was solemnized and the place where parties last resided as husband and wife will have jurisdiction to entertain a matrimonial suit. In the present case admittedly the marriage between the parties was solemnized within village Parashmoni, where parties are residing at present, but in their own respective houses. They lastly resided together as husband and wife in the matrimonial home situated within village Parashmoni.

Such very facts prove that it is the District Court of Alipore who has jurisdiction to entertain the Mat Suit filed by wife and not the court of Barasat.

Under the circumstances, the MAT Suit No. 1533 of 2015 is withdrawn from the court of Fast Track Court, 4th Court, Barasat and transferred to the Court of District Judge, South 24-Parganas.

The learned District Judge may keep the case in his/her own file or transfer the same to any other Court having jurisdiction to try and dispose of the same or transfer the case to the Court having jurisdiction to try the suit.

The learned Additional District and Sessions Judge, Fast Track, 4th Court at Barasat shall transfer the records of Matrimonial Suit No. 1533 of 2015 to the Court of the learned District Judge at Alipore within a period of 30 days from the date of communication of this order.

The learned Additional District and Sessions Judge, Fast Track, 4th Court at Barasat, shall act on such communication.

The parties shall appear before the learned District Judge at Alipore on 21.05.2022 irrespective of transfer of the records of the said title suit but only on the basis of server copy of this order.

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

The transferee Court is further requested to expedite disposal of the said Mat Suit pending since 2015 in accordance with law.

Accordingly, **C.O. 674 of 2022** is disposed of.

Connected application, if any, also stands disposed of.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Parties shall act on the server copy of this order duly downloaded from the official website of this court.

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

(Kesang Doma Bhutia, J.)