

07-06-2022
Item no.32
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO. No.717 of 2022
Nabanita Chakraborty
-vs-
Srijit Banerjee

Mr. Sourjya Roy
Mr. Arjun Mukherjee ...for the petitioner

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

This is an application under section 24 of the Code of Civil Procedure, 1908 seeking transfer of a matrimonial suit from a court at Barrackpore, North 24-Parganas to a court at Alipore, South 24-Parganas.

The petitioner, Nabanita Chakraborty, states that she was married to the opposite party, Srijit Banerjee, on February 22, 2016. After her marriage with him, the petitioner started living with the opposite party as his wife. The marriage between them was duly consummated.

It is alleged by the petitioner that some time after her marriage, the opposite party and his family members subjected her to cruelty, both physically and mentally. Unable to bear with the torture, she left her matrimonial house and started residing at her parental home which falls under the jurisdiction of the learned District Judge, South 24-Parganas at Alipore.

The petitioner states that she filed a matrimonial suit being No.2685 of 2018 in the court of learned District Judge, South 24-Parganas at Alipore against her husband, the opposite party, under section 27 of the Special Marriage Act, 1954 seeking dissolution of marriage between them.

After the petitioner filed the aforesaid matrimonial suit, the opposite party also filed a matrimonial suit being No.1148 of 2019 in the court of learned Additional District Judge at Barrackpore, North 24-Parganas under section 9 of the Hindu Marriage Act, 1955 praying for restitution of conjugal rights.

Learned lawyer appearing for the petitioner submits that after the petitioner filed the matrimonial suit, the opposite party entered appearance in the suit and filed written statement to contest it. Issues of the matrimonial suit have already been framed and the suit is posted for peremptory hearing on June 17, 2022.

Learned lawyer further submits that the petitioner resides at a place which is under the jurisdiction of the learned District Judge, South 24-Parganas. Under such circumstances, if the matrimonial suit filed by the opposite party is transferred to the court where the petitioner's matrimonial suit has been filed, it will meet the interest of justice.

Despite service of notice, there is no representation on the part of the opposite party.

The facts and circumstances as narrated by the petitioner in the application under section 24 CPC remain uncontroverted on the part of the opposite party.

I find from the documents on record that the opposite party entered appearance in the petitioner's matrimonial suit being No.2685 of 2018 and he is contesting the suit.

As informed by the learned lawyer for the petitioner, the matrimonial suit filed by the petitioner is now pending in the court of the learned Additional District Judge, 11th Court at Alipore. Similarly, this court finds that the matrimonial suit brought by the opposite party is pending in the court of the learned Additional District Judge, FTC, 4th Court, Barrackpore.

Having considered the uncontroverted facts and circumstances and upon hearing learned counsel for the petitioner, I feel that the matrimonial suit brought by the opposite party for restitution of conjugal rights should be withdrawn and transferred to the concerned court at Alipore.

Accordingly, the application is allowed.

Let Mat. Suit No.1148 of 2019 pending in the court of the learned Additional District Judge, FTC, 4th Court, Barrackpore be withdrawn and the suit be transferred to the court of learned Additional District Judge, 11th Court, Alipore, South 24-Parganas for disposal.

The learned Additional District Judge, FTC, 4th Court, Barrackpore is directed to transmit all the case records to the learned transferee court forthwith on receipt of a copy of the order.

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

CO No.717 of 2022 is, thus, disposed of.

Certified copy of this order, if applied for, shall be given to the parties.

[Rabindranath Samanta, J]

