

Ct. 15.7
No. 2022
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C.O. 763 of 2022
Smt. Saswati Sashmal (Pachhal)
-Versus-
Sujoy Pachhal

Mr. Snehasis Jana **...For the Petitioner**

Mr. Debangshu Bandhu
Mr. Ivan Roy
Mr. Sk Abdur Rahim **...For the Opposite Party**

The opposite party files affidavit-in-opposition and the petitioner files affidavit-in-reply. Let the affidavits be kept on record.

The instant revision arising out of an application under Section 24 of the Code of Civil Procedure is taken up for hearing.

I have heard learned Counsels appearing for the parties.

It is stated by the petitioner, Smt. Saswati Sashmal (Pachhal) that her marriage with the opposite party, Sujoy Pachhal was solemnized on January 20, 2016. Their marriage was duly consummated. Out of her wedlock with the opposite party she gave birth to a male child on August 19, 2017. But her son, namely, Archisman Sashmal aged about 4½ years, is suffering from autism. The petitioner is a school teacher of DaspurVivekananda High School (H.S.), P.O. & P.S. Daspur, District – Paschim Medinipur.

The petitioner complains that soon after her marriage, the opposite party subjected her to torture. Ultimately, she was driven out of her matrimonial home on January 20, 2017 and at that time she was pregnant. Now the petitioner has been staying at her parental home at Nuniagoda, Daspur, District - Paschim Medinipur.

The petitioner came to know that the opposite party filed a matrimonial suit, being No. 82 of 2022 in the Court of the learned District Judge, Purba Medinipore at Tamluk under Section 27 of the Special Marriage Act against her seeking dissolution of marriage between them.

The petitioner states that the distance between her parental home and the Court of the learned District Judge, Purba Medinipore at Tamluk is about 75 kms. Her child is too minor and suffering from autism. Her parents are aged and ailing persons. Under such circumstance, it will be hardship for her to appear before the Court of the learned District Judge, Purba Medinipore at Tamluk to attend the matrimonial proceeding. Hence, the petitioner prays for transfer of the matrimonial suit to the Court of the learned Additional District Judge at Ghatal, Paschim Medinipur.

In the affidavit-in-opposition the opposite party denies the allegations as made by the petitioner. It is asserted by the opposite party that the petitioner left her matrimonial home on her own and even the opposite party was not allowed to see and look after his child.

Learned Lawyer appearing for the petitioner submits that the grounds as set out in the application justify the transfer of the matrimonial suit from the Court of the learned District Judge at Tamluk to the Court of the learned Additional District Judge at Ghatal, Paschim Medinipur.

Per Contra learned Lawyer appearing for the opposite party vehemently submits that the petitioner left her matrimonial home on her own. He submits that the

petitioner did not allow him to his own child. Learned Lawyer points out that the distance between the parental home of the petitioner and the Court of the learned District Judge at Tamluk does not exceed 55 kms. On such score learned Lawyer submits that the revisional application filed by the petitioner is liable to be dismissed.

It is not in dispute that the marriage between the parties was solemnized on January 20, 2016 and out of their wedlock a male child was born on August 19, 2017. From some documents annexed to the application it appears that the male child of the petitioner is afflicted with autism. I do not find any reason to disbelieve that the parents of the petitioner are aged and ailing persons.

What it appears, the petitioner is a teacher of a school, which situates at Daspur, Paschim Medinipore.

In a catena of decisions rendered by the Hon'ble Apex Court and this High Court, it has been held that inconvenience of wife should be of paramount consideration while disposing of an application under Section 24 of the Code of Civil Procedure.

The facts and circumstances as narrated in the application demonstrate that it will be hardship for the petitioner to appear before the Court of the learned District Judge at Tamluk to attend the matrimonial suit.

In view of the above, the revisional application is allowed.

Let the Matrimonial Suit, being No. 82 of 2022 be withdrawn from the Court of the learned District Judge,

Purba Medinipur at Tamluk and the suit be transferred to the Court of the learned Additional District Judge at Ghatal, Paschim Medinipur.

The learned District Judge, Purba Medinipore at Tamluk is directed to transmit the case record of the matrimonial suit to the transferee Court immediately after receipt of a copy of the order.

With the aforesaid direction, C.O. 763 of 2022 stands disposed of.

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

Let a copy of this order be communicated to both the 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.)