

S/L. 73.
July 26, 2022.
MNS.

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C. O. No. 765 of 2022

Anusuya Sikdar nee Biswas
Vs.
Joydev Sikdar

Mr. Bratindra Narayan Roy,
Mr. Maloy Ghosh

... for the petitioner.

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

Despite service of notice upon the
opposite party, 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 the Court of the learned
District Judge, Hooghly at Chinsurah to the Court
of the learned Additional District Judge, 1st Court
at Barrackpore.

Briefly stated, it is stated by the petitioner
Anusuya Sikdar nee Biswas that her marriage
with the opposite party was solemnized on
September 11, 2017 according to Hindu Rites
and Customs. The marriage between them was
duly consummated and out of her wedlock with

the opposite party she gave birth to a female child, namely, Joyeeta, on August 5, 2018.

The petitioner complains that the opposite party subjected her to cruelty by various means. Unable to bear with the torture, she left her matrimonial home and started residing at her parental home at 127/2/1, Paschim Masunda, Police Station – New Barrackpore, District North 24 Parganas.

To sustain the livelihood of her child and herself, the petitioner has filed a maintenance case, being Maintenance Case No. 352 of 2021 under Section 125 of the Code of Criminal Procedure against the opposite party in the Court of the learned ACJM, Barrackpore, seeking maintenance allowance.

After getting the summons from a matrimonial suit, the petitioner came to know that the opposite party filed a matrimonial suit, being Matrimonial Suit No. 86 of 2020, against her in the Court of the learned District Judge, Hooghly at Chinsurah, seeking restitution of conjugal rights.

The child of the petitioner is aged three and half years. Her parents are aged and ailing. The distance between her parental home and the

Court at Chinsurah is about 65-70 kilometers. Under such circumstances, it will be hardship for the petitioner to appear before the Court of the learned District Judge at Chinsurah to attend the matrimonial proceeding. Hence the prayer.

Since the opposite party has chosen not to contest the revisional application, it will be presumed that the facts and circumstances as narrated in the application remain uncontroverted.

Learned lawyer appearing for the petitioner by drawing my attention to the application under Section 9 of the Hindu Marriage Act filed by the opposite party submits that the opposite party has admitted that on the complaint of the petitioner under Section 156(3) of the Code of Criminal Procedure, one New Barrackapore Police Station Case No. 490 of 2019 dated December 14, 2019 under Sections 498A/406/34 I.P.C. and Sections 3/ 4 of Dowry Prohibition Act has been registered against him.

Learned lawyer submits that one maintenance case brought by the petitioner against the opposite party is pending in the Court of the learned Judicial Magistrate, Barrackapore.

Learned lawyer submits that the facts and circumstances as demonstrated by the petitioner

will indicate that the petitioner will indeed face hardship to appear before the Court of the learned District Judge at Chinsurah to attend the matrimonial proceeding.

What I find, a maintenance case against the opposite party is pending in the Court of the learned Judicial Magistrate at Barrackpore. Besides, a criminal case brought by the petitioner under Sections 498A/406/34 I.P.C. and Sections 3/ 4 of the Dowry Prohibition Act is pending in the Court of the learned ACJM, Barrackapore.

The petitioner has a minor child aged about three and half years and her parents are aged and ailing. These facts demonstrate that the petitioner will face hardship if she has to travel a long distance to appear before the Court of the learned District Judge, Hooghly at Chinsurah.

Accordingly, the revisional application is allowed.

Let the matrimonial suit, being Matrimonial Suit No. 86 of 2020 be withdrawn from the Court of the learned District Judge, Hooghly at Chinsurah and the suit be transferred to the Court of the learned Additional District Judge, 1st Court at Barrackapore for disposal.

The learned Additional District Judge, 1st Court at Barrackpore may either dispose of the suit himself or herself or transfer the suit to any of the competent Courts at Barrackpore for disposal.

The learned District Judge, Hooghly at Chinsurah is directed to transmit the case record to the learned transferee Court immediately after receipt of the copy of this order.

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

With the aforesaid direction, the revisional application, being C. O. No. 765 of 2022 stands disposed of.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Rabindranath Samanta, J.)