

Ct. 07.7
No. 2022
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C.O. 775 of 2022

Anwari Khatoon

-Versus-

Shahnawaz Alam

Mr. Partha Pratim Roy

Mr. Debayan Roy

...For the Petitioner

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a Matrimonial Suit from the Court of learned Civil Judge (Junior Division), 3rd Court at Alipore to the concerned Court at Howrah.

It is stated by the petitioner, Anwari Khatoon that her marriage with the opposite party, Shahnawaz Alam was solemnized on March 09, 2019 according to Muslim rites and custom. The marriage between them was consummated. Out of her marriage with the opposite party, the petitioner gave birth a male child, who is now aged about 13 months.

It is alleged by the petitioner that after her marriage, the opposite party inflicted torture upon her. Unable to bear with the torture, she left her matrimonial home and started residing at her parental home at 2/1, Baje Shibpur Road, Post Office and Police Station – Shibpur, District – Howrah.

The petitioner has filed an application under Section 12 of the Protection of Women from Domestic Violence Act in the Court of the learned Chief Judicial Magistrate at Howrah against the opposite party and this application is pending.

The petitioner came to know that the opposite party filed a matrimonial suit, being No. 34/21 in the Court

of the learned Civil Judge (Junior Division), 3rd Court at Alipore. The petitioner submits that as the aforesaid application under Section 12 of the Protection of Women from Domestic Violence Act is pending in the Court of the learned Chief Judicial Magistrate at Howrah and since her child is too minor, it will be hardship for her to appear before the concerned Court at Alipore to attend the matrimonial proceeding. Hence, the prayer.

Admittedly, a proceeding under Section 12 of the Protection of Women from Domestic Violence Act filed by the petitioner against the opposite party awaits disposal from the Court of the learned Chief Judicial Magistrate at Howrah.

By an order passed today in C.O. 774 of 2022 it has been directed that one Act VIII case brought by the opposite party against the petitioner in the Court of the learned District Judge, South 24-Parganas at Alipore to be transferred to the learned District Judge, Howrah at Howrah. Therefore, the proceeding brought by the petitioner and Act VIII case brought by the opposite party are to be disposed of by the concerned Courts at Howrah.

Having heard the learned Counsels appearing for the parties and considering all the attending circumstances I feel that it will be wise to withdraw the aforesaid matrimonial suit from the Court of the learned Civil Judge (Junior Division), 3rd Court at Alipore and transfer the suit to any of the Courts of learned Civil Judge (Junior Division) at Howrah.

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

Let the Matrimonial Suit, being No. 34 of 2021 be withdrawn from the Court of the learned Additional Civil Judge (Junior Division), 3rd Court at Alipore and the suit be transferred to any of the Courts of the learned Civil Judge (Junior Division), Howrah for disposal.

Learned Civil Judge (Junior Division), 3rd Court, Alipore is directed to transmit the case record of the matrimonial suit to the learned District Judge, Howrah immediately after receipt of a copy of the order.

After the case record of the matrimonial suit is received, the learned District Judge shall transfer the suit to any Courts of learned Civil Judge (Junior Division), Howrah for disposal as will be decided by him or her.

With the aforesaid direction, C.O. 775 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.*)