

08.06.2022
Sl. No.36
KS

C.O. 883 of 2022

Gargi Sarkar
-Vs.-
Surajit Sarkar

Mr. Baidurya Ghosal
.....For the Petitioner

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

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

The instant revisional application arises out of 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, Purba Bardhaman at Burdwan to the Court of the Learned Additional District Judge, Siliguri, Darjeeling.

To put precisely, it is stated by the petitioner Gargi Sarkar that her marriage with the opposite party, Surajit Sarkar was solemnized on 4th February, 2010 according to Hindu Rites and Customs. After her marriage she started living with the opposite party as husband and wife and their marriage was consummated. Out of her wedlock with him, the petitioner gave

birth to a female child on 4th February, 2012. It is alleged by the petitioner that her husband is a womanizer and keeping extra marital affairs with some women. While she voiced protest, her husband subjected her to cruelty both physically and mentally. Ultimately, unable to bear with the torture meted out to her, she had to leave her matrimonial home and took shelter at her parental home at Siliguri.

The daughter of the petitioner is a school going girl. The petitioner has no source of income. Under such circumstances, the petitioner filed application under Section 12 of the Protection of Women from Domestic Violence Act in the Court of a Learned Magistrate at Siliguri. However, as against the order passed by the Learned Magistrate, on the application under the Protection of Women from Domestic Violence Act, a Misc. Appeal No.20 of 2019 is pending in the Court of the learned Additional District Judge, Siliguri.

The petitioner submits that the opposite party has filed a Matrimonial Suit being No.92 of 2022 in the Court of the Learned District Judge, Purba Bardhaman at Burdwan under Section 13 of the Hindu Marriage Act seeking dissolution of marriage between them. The distance between the Court at Burdwan and Siliguri is more than 498 Kilometer. Owing to financial distress and her mother being an aged person it will be hardship for her

to travel more than 498 Kilometer to attend the Court at Burdwan. Hence, the prayer for seeking transfer of the matrimonial suit.

In the absence of the opposite party despite service of notice upon him, the facts and circumstances as stated in the application remain un-controverted. As it appears from the documents annexed to the application, the opposite party has to appear before a Court at Siliguri to contest proceeding under the provisions of the Protection of Women from Domestic Violence Act.

Having heard the learned counsel appearing for the petitioner and considering the totality of the facts and circumstances of the case as narrated in the application supported by affidavit, I feel that it will be justified if the aforesaid matrimonial suit is withdrawn and transferred to the concerned Court at Siliguri.

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

Accordingly, the Matrimonial Suit No.92 of 2022 now pending in the Court of the Learned District Judge, Purba Bardhaman at Burdwan be withdrawn and the suit be transferred to the Court of the Learned Additional District Judge, 2nd Court, Siliguri for disposal.

The learned District Judge, Burdwan at Purba Bardhaman is requested to transmit the case records of the matrimonial suit to the learned transferee Court forthwith after receipt of the copy of this order.

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

The revisional application stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Rabindranath Samanta, J.)