

21.06.2022

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C.O. 943 of 2022

Srimati Sarani Bhaumik

Vs.

Sri Avik Ghosh

Mr. Sanjib Kumar Mukhopadhyay

Ms. Margish Parveen

... For the petitioner

Mr. Anindya Bose

Mr. Diptendu Mandal

... For the opposite party

This revision 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 Additional District Judge, 10th Court at Alipore, South 24-Parganas to the court of the learned Additional District Judge, First Court at Barrackpore.

It is stated by the petitioner, Srimati Sarani Bhaumik, that her marriage with the opposite party, Shri Avik Ghosh, was solemnised on 22nd May, 2011 under the Special Marriage Act. The marriage between them was duly consummated and out of her wedlock with the opposite party she gave birth to a female child namely Siddhi Ghosh on 16th August, 2015.

It is alleged by the petitioner that she was subjected to mental torture by the opposite party and for which she had to leave her matrimonial home and started residing at her paternal home at Kampa, Police Station Bizpur, District North 24-Parganas. The child of them is now

staying with the petitioner.

The opposite party filed an application seeking custody of the child under the Guardians and Wards Act against the petitioner in the court of the learned District Judge, North 24-Parganas. This application was transferred to the court of the learned Additional District Judge, 7th Court at Barasat. But, the application filed by the opposite party and registered as Misc. Case No.153 of 2019 (Act VIII) was dismissed for default.

The petitioner submits that the opposite party filed a matrimonial suit being No.1776 of 2020 under Section 27 of the Special Marriage Act seeking dissolution of marriage between them in the court of the learned District Judge, South 24-Parganas at Alipore. The suit after transfer is now pending in the court of the learned Additional District Judge, 10th Court at Alipore.

The petitioner states that both her parents aged more than 70 years are suffering from various age-related ailments. Under such circumstances, it will be very difficult for her to travel nearly 63 K.Ms. to attend the matrimonial proceeding before the court of the learned Additional District Judge, 10th Court at Alipore. As such, the petitioner seeks transfer of the matrimonial suit to the concerned court at Barrackpore.

Learned Counsel appearing for the petitioner by referring to a catena of decisions in the cases of (i) *Sumita*

Singh Vs. Kumar Sanjoy and anr., reported in 2001(10) SCC 41; (ii) *G. Vijayalakshmi Vs. Ramchandra Shekhara Shestry*, reported in A.I.R. 1981 S.C. 1143; (iii) *Sumita Sharma Vs. Vivek Sharma*, reported in 2004(13) S.C.C. 607, submits that the inconvenience of the wife should be taken as a prime consideration while disposing of an application under Section 24 of the Code of Civil Procedure. Learned Counsel submits that the circumstances which have been narrated in the application do justify the transfer of the matrimonial suit.

Learned Counsel appearing for the opposite party submits that if the Court passes any order transferring the matrimonial suit, the Court may consider that the matrimonial suit may be transferred to the court of the learned District Judge, North 24-Parganas at Barasat.

Having heard the learned Counsel appearing for the parties and on consideration of the facts and circumstances as stated in the application, I feel that the matrimonial suit should be withdrawn from the court of the learned Additional District Judge, 10th Court at Alipore and it should be transferred to the court of the learned District Judge, North 24-Parganas at Barasat.

Accordingly, let the matrimonial suit being No.1776 of 2020 be withdrawn from the court of the learned Additional District Judge, 10th Court at Alipore and the suit be transferred to the court of the learned District

Judge, North 24-Parganas at Barasat for disposal.

The learned District Judge, North 24-Parganas may dispose of the suit either himself or herself or transfer the suit to any of the courts of the learned Additional District Judge at Barasat for disposal.

The learned Additional District Judge, 10th Court at Alipore, South 24-Parganas is directed to transmit the case records of the matrimonial suit to the transferee court immediately after receipt of copy of this order.

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

Accordingly, the revisional application being C.O. 943 of 2022 is allowed on contest.

There shall be no order as to costs.

(Rabindranath Samanta, J.)