

18-08-2022
Item no.126
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO. No.990 of 2022
Bristi Dutta (Khan)
-vs-
Priyoranjan Dutta

Mr. Rwitendra Banerjee
Mr. Sougata Mitra
Ms. Ankita Dey ...for the petitioner

Affidavit of service filed in court be taken on record.

It appears from the affidavit of service that notice has duly been served upon the opposite party as well as learned counsel who represents the opposite party before the learned court below. Despite notice, there is no representation on behalf of him. Hence, the revisional application is taken up for hearing in absence of the opposite party.

The petitioner in this revisional application under section 24 of the Code of Civil Procedure, 1908 is seeking transfer of a matrimonial suit filed by the opposite party from the court of learned District Judge, Bankura to the learned District Judge, Purulia.

To put succinctly, the petitioner states that her marriage with the opposite party was solemnized on April 23, 2017 according to the Hindu rites and customs. The marriage between them was duly consummated.

The petitioner complains that the opposite party with his family members inflicted torture upon her by various ways. Unable to bear with the torture meted out to her, she had to leave her matrimonial home and started residing at her parental home at village Baghmundi, district Purulia.

On the allegations of torture upon her, the petitioner lodged an FIR at Baghmundi police station and the FIR was registered as Baghmundi PS Case No.33 of 2022 under sections 498A/506/34 IPC and this case is pending in the court of learned CJM, Purulia. Besides, in order to sustain her livelihood, she has brought a maintenance under section 125 CrPC against the opposite party and the case is pending in the court of learned Chief Judicial Magistrate, Purulia.

The petitioner came to know that the opposite party brought a matrimonial suit being No.214 of 2020 against her under s.13 of the Hindu Marriage Act seeking dissolution of marriage in the court of learned District Judge, Bankura.

The petitioner states that the distance between her parental home and the concerned court at Bankura is about 240 kms. She has no source of income. Under such circumstances, it will be hardship for her to appear before the concerned court at Bankura to attend the matrimonial proceeding. Hence this prayer.

Since the opposite party has chosen not to contest the revisional application, it will be presumed that the averments/allegations made in the revisional application remain uncontroverted.

What I find from the uncontroverted averments in the s.24 CPC application and the materials on record, the petitioner under some compelling circumstances had to leave her matrimonial home and started residing at her parental home at Baghmundi, Purulia. As I find, the petitioner launched a case under sections 498A/506/34 IPC against the opposite party which is pending in the court of learned CJM, Purulia. Besides, she has brought a

maintenance case under section 125 CrPC against the opposite party and the case is pending in the court of learned Chief Judicial Magistrate, Purulia. These show that the opposite party will have to appear before the court or courts at Purulia to attend the aforesaid proceedings. The distance between the petitioner's parental house and the concerned court at Bankura is about 240 kms. Moreover, the petitioner has no source of income. All these demonstrate if the petitioner is to appear before the court at Bankura, she will face immense hardship.

Having heard learned counsel for the petitioner and considering the facts and circumstances as above, I feel that it would be wise to withdraw the matrimonial suit from the concerned court at Bankura and the suit be transferred to the court of learned District Judge, Purulia.

In view of the above, the revisional application is allowed by the following order.

Let the matrimonial suit being No.214 of 2020 be withdrawn from the court of learned District Judge, Bankura and the suit be transferred to the court of learned District Judge, Purulia for disposal.

The learned District Judge, Purulia may either dispose of the said suit himself/herself or transfer it to any of the courts of learned Additional district Judge at Purulia for disposal.

The learned District Judge, Bankura is directed to transmit the case record of the aforementioned matrimonial suit to the learned transferee court immediately after receipt of a copy of this order.

The department is directed to communicate a copy of this order to both the learned courts below forthwith.

With the above, CO No.990 of 2022 stands disposed of. No order as to costs.

[Rabindranath Samanta, J]