

40 15.06.2022
NB Ct. 10

CO 924 of 2021

Pubali Chowdhury @ Pubali Roy
Vs.
Arnab Chowdhury

Mr. Soujanya Bandyopadhyay.
...for the petitioner.

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

The petitioner files one supplementary affidavit. Let it be kept on record.

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

The instant revision 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, 5th Court, Krishnanagar, Nadia to the Court of the learned District Judge at Jhargram.

It is stated by the petitioner that she was married to the opposite party and the marriage between them has been duly consummated. Out of their wedlock a male child namely Akash Chowdhury has been born. The child of the petitioner is a school going boy.

It is alleged by the petitioner that after the petitioner was subjected to cruelty by the opposite party, she having no other alternative had to leave her matrimonial home and took shelter at parental home at Jamshedpur. The petitioner came to know that the opposite party in order to harass her, has filed a

matrimonial suit being MAT 370 of 2018 against her in the Court of the learned District Judge, Nadia at Krishnanagar. Subsequently, the suit was transferred to the Court of the learned Additional District Judge 5th Court, Krishnanagar, Nadia and the suit has been renumbered as MAT Suit No.191 of 2018.

The petitioner submits that she has been suffering from various ailments and she has undergoing a surgery of removing stones from gall bladder. Owing to her ailing health, it will be extremely difficult for her to travel more than 350Kms. from her parental home to attend the matrimonial proceedings before the Court at Krishnanagar. Besides, she will face difficulty to go to Krishnanagar Court leaving her minor child alone at her parental home.

The petitioner apprehends that if she goes to attend the matrimonial proceeding before the Court at Krishnanagar, she may be assaulted by the opposite party there. In such circumstances, the petitioner prays for transfer of the matrimonial suit to the Court of the learned District Judge at Jhargram.

In the absence of the opposite party, it will be deemed that the facts and circumstances as stated in the application supported by the affidavit remain uncontroverted. The facts and circumstances as stated in the application indicate that the petitioner has genuine difficulties to appear before the Court at Krishnanagar to attend the proceedings of the matrimonial suit. The inconvenience of the wife should be taken as a prime consideration while the Court deals with the application under Section 24 of the Code of Civil Procedure.

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

Let the Matrimonial Suit being MAT No.370 of 2018 renumbered as MAT 191 of 2018 be withdrawn from the Court of the Additional District Judge, 5th Court, Krishnanagar, Nadia and the suit be transferred to the Court of the learned District Judge, Jhargram for disposal.

The learned District Judge, Jhargram may dispose of the suit either himself/herself or transfer the suit to any of the Courts of the learned Additional District Judge there.

The learned Additional District Judge, 5th Court, Krishnanagar, Nadia is directed to transmit the case of the aforesaid matrimonial suit 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 learned Courts below immediately.

Thus, CO 924 of 2021 stands disposed of.

No order as to costs.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Rabindranath Samanta, J.)