

11.02.2022
Item No.5
Ct. No.7
CHC
(disposed of)

**C.O.949 of 2021
(Via Video Conference)**

**Smt. Priyanka Misra Nee Ganguly
VS.
Sri Debasis Misra**

Mr. Debjit Mukherjee,
Mrs. Susmita Chatterjee,
Mrs. Dipanwita Ganguly,
Mr. Kaustav Bhattacharya
...for the petitioner

Mr. Amajit De
...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure, seeking transfer of Matrimonial Suit No.610 of 2020, from the court of learned Additional District Judge, Durgapur to the court of learned Additional District Judge, 1st Fast Track Court, Howrah.

Mr. Debjit Mukherjee, learned advocate appearing for the petitioner/wife submits that petitioner/wife has been staying apart from her husband under a compelling circumstances in her parental house situated within District Howrah. Petitioner is a housewife. She has no income of her own to maintain herself. In the meantime, petitioner/wife has instituted a suit for divorce against her husband,

which is pending in the court of learned Additional District Judge, Fast Track 1st Court, Howrah.

Opposite party/husband, according to Mr. Mukherjee, has already entered appearance in the divorce suit and filed written statement/written objection. For *alimony pendente lite*, the wife has also taken out an application under Section 24 of the Hindu Marriage Act, and it is awaiting decision.

As a counterblast of the Matrimonial Suit for divorce, the opposite party has filed the Matrimonial Suit No.610 of 2020, at Durgapur Court praying for restitution of conjugal rights.

As regards the grounds set out in the transfer application; long distance to be covered, hardship, harassment, multiplicity of decisions and financial constraints are grossly focussed.

Upon taking such grounds, Mr. Mukherjee has proposed for the instant transfer.

Mr. Amajit De, learned advocate appearing for the opposite party/husband submits that conduct of the petitioner/wife is not very happy, and the entire effort put by the petitioner/wife is to harass the husband by this way or that way. The instant transfer application is thus purely harassing one.

Mr. De, learned advocate further contends that opposite party/husband will be put to an

inadvantageous state in the event of the case being transferred to the proposed court.

Having considered the rival submissions of the parties, it appears that both the parties are interested to protect their respective inconveniences and hardship, which are very common in a transfer application.

In a case of this nature, the fighting couple would address their respective grievance against each other, which is not to be addressed by this Court and it is, however, left to be addressed by the trial Court at the time of trial.

When a suit for divorce is pending at Howrah Court, in which opposite party has filed written statement/written objection to contest the proceeding, another suit praying for Restitution of Conjugal Rights pending between the selfsame parties should be brought to Howrah Court in the interest of preventing conflicting decision to come.

For the discussion made hereinabove, the instant transfer application is disposed of directing learned Additional District Judge, Durgapur to transfer the Matrimonial Suit No.610 of 2020 to the court of learned Additional District Judge, 1st Fast Track Court, Howrah, within six (06) weeks from date of communication of this order.

Both the parties are accordingly directed to ensure their respective appearance before the transferee court on 31st March, 2022.

Transferee Court, upon receipt of the case record, is directed to dispose of the pending Matrimonial Suit providing sufficient opportunities of hearing to either of the parties to this case.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)