

16-08-2022
Item no.123
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO. No.1123 of 2022
Sarita Ram
-vs-
Krishna Ram

Mr. Prantick Ghosh
Mr. Siddhartha Sarkar ...for the petitioner

Md. Abdur Rakib ...for the opposite party

Learned counsel for the opposite party submits that though the opposite party has not filed any affidavit-in-opposition, the allegations and averments as made in the revisional application shall be deemed to have been denied by the opposite party.

The petitioner in this application under section 24 of the Code of Civil Procedure, 1908 seeks transfer of a matrimonial suit filed by the opposite party-husband from the court of learned Additional District Judge, Baruipur to the court of learned District Judge, North 24 Parganas, Barasat.

To put succinctly, it is stated by the petitioner that her marriage with the opposite party was solemnized on January 26, 2005 according to Hindu rites and customs. The marriage between them was consummated; and out of their wedlock, a male child were born on March 4, 2006.

It is alleged by the petitioner that after her marriage, the opposite party subjected her to cruelty by various ways on the demand for more dowry and drove her out of his house. After being driven out of her matrimonial home, the petitioner having no alternative way took shelter at her parental home at Maa Sarda Lane, Sahaharpur, Sodepur Road, New Barrackpore, North 24 Parganas, Kolkata-110.

The petitioner complains that on the allegation of torture inflicted upon her, she lodged an FIR at Sonarpur police station and the FIR was registered as the Sonarpur PS Case No.1093 of 2016 under ss.498A/307/34 IPC against the opposite party for investigation.

To sustain livelihood of her son and herself, she filed a maintenance case being Misc. Case No.13 of 2021 against the opposite party in the court of learned Chief Judicial Magistrate, Barasat. She has no income of her own.

The petitioner states that she came to know that the opposite party brought a matrimonial suit being No.593 of 2020 against her seeking dissolution of their marriage which is now pending in the court of learned Additional District Judge, Baruipur.

The petitioner states that the distance between her parental home and the concerned court at Baruipur is about 100 kms. in both ways. Her child is minor. She has no income of her own. Hence the prayer.

On the other hand, it is submitted on behalf of the opposite party that the Hon'ble Supreme Court in a decision in the case of **Anindita Das v. Srijit Das** reported in **(2006) 9 SCC 197** has held that leniency shown to the women by courts in transfer matters is often misused and taken advantage of by women and as such the courts require to consider each petition on its own merits. Under such circumstances, learned counsel submits that the instant revisional application is liable to be dismissed.

Learned counsel for the petitioner placing reliance upon a decision in the case of **Rajani Kishor Pardesh v. Kishor Babulal Pardeshi** reported in **(2005) 12 SCC 237** submits that the Hon'ble apex court in the aforesaid decision has held that inconvenience of the wife should be a

paramount consideration while disposing of an application under section 24 CPC.

Having heard learned counsels for the parties and considering the balance of convenience and inconvenience of the parties, I feel that it would be wise if the matrimonial suit is withdrawn from the concerned court at Baruipur and transferred to the court of learned District Judge, North 24 Parganas at Barasat.

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

Let Matrimonial Suit No.593 of 2020 be withdrawn from the court of learned Additional District Judge, Baruipur and the suit be transferred to the court of learned District Judge, North 24 Parganas, Barasat for disposal.

Learned District Judge, North 24 Parganas, Barasat may either dispose of the suit himself/herself or transfer it to any of the courts of learned Additional District Judge at the station.

Learned Additional District Judge at Baruipur is directed to transmit the case record of Matrimonial Suit No.593 of 2020 to the 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.1123 of 2022 stands disposed of. No order as to costs.

[Rabindranath Samanta, J]

