

Ct. 16.8
No. 2022
14
124
akb

C.O. 1210 of 2022
Smt. Sanchita Sinha (Hazra)
-Versus-
Sri Saibal Sinha

Mr. Subrata Ghosh

...For the Petitioner

Mr. Ranojay Banerjee
Mr. Somnath Adhikary

...For the Opposite Party

Supplementary affidavit filed on behalf of the petitioner be kept on record.

The revisional application under Section 24 of the Code of Civil Procedure is taken up for hearing.

I have heard learned Lawyers appearing for the parties.

Shorn of details, the case of the petitioner may be stated as under :

The petitioner, Smt. Sanchita Sinha (Hazra) was married to the opposite party, Sri Saibal Sinha on 18th November, 2010 according to Hindu Rites and Customs. The marriage between them was registered under the Hindu Marriage Act, 1954. The marriage between them was duly consummated. Out of her wedlock with the opposite party, the petitioner gave birth to a female child on 15th September 2011. The petitioner is an Assistant Professor of Political Science attached to Deshabandhu Maha Vidyalaya at Chittaranjan, Paschim Bardhaman. Because of her service, the petitioner has been compelled to reside at her parental home at Asansol, Paschim Bardhaman.

All on a sudden, on 16th February 2022, the petitioner after receiving summons of a matrimonial suit came to know that the opposite party brought a matrimonial

suit, being No. 69 of 2022 against her in the Court of the learned District Judge, Murshidabad at Berhampore, seeking dissolution of marriage. The distance between her parental home at Asansol and the Court of the learned District Judge at Berhampore is nearly 180 kms. in one way. The petitioner avers that excepting herself there is none to look after her minor daughter at Asansol.

In the supplementary affidavit, the petitioner states that she has brought a maintenance case under Section 125 of the Code of Criminal Procedure against the opposite party seeking maintenance of her minor daughter and this maintenance proceeding is pending in the Court of the learned Judicial Magistrate, 5th Court, Asansol. Under the aforesaid circumstances, the petitioner seeks transfer of the matrimonial suit.

Learned Lawyer appearing for the opposite party submits that the petitioner has a residential flat at Kolkata. He submits that the petitioner is a working lady and she has to attend her college at Chittaranjan leaving her minor child in home. In such context, learned Lawyer submits that the ground of the petitioner that since there is none to look after her child if she appears before the Court of the learned District Judge at Berhampore is not believable. Alternatively, learned Lawyer submits since the petitioner has residential flat at Kolkata, the matrimonial suit may be transferred to any of the Courts near her Kolkata residence. He further submits that on earlier occasion his client has prayed for resolving the disputes through mediation but the petitioner was not agreeable to the mediation procedure.

However, learned Lawyer for the petitioner

submits that it will be hardship for a lady to travel a long distance to appear before the Court of the learned District Judge at Berhampore to attend the matrimonial proceeding. On such score, learned Lawyer submits that the matrimonial filed by the opposite party should be transferred to the Court of the learned District Judge at Asansol.

Admittedly, the marriage between the parties was solemnized on 18th November 2010 and registered on 5th March 2011. It is also an admitted fact that out of wedlock a female child was born on 15th September 2011. It is not in dispute that the petitioner with her minor daughter is now residing at her parental home at Asansol.

It is the fact that the distance between Asansol and the Court of the learned District Judge at Berhampore is nearly 180 kms.

What it transpires from the supplementary affidavit, the petitioner has brought a maintenance case against the opposite party seeking maintenance of her minor child and the said maintenance proceeding is pending in the Court of the learned Judicial Magistrate, 5th Court, Asansol. That being the factual scenario, the opposite party has to appear before the learned Judicial Magistrate, Asansol to participate in the hearing of the maintenance case.

The Hon'ble Apex Court in a plethora of decisions has held that inconvenience of wife shall be of paramount consideration while disposing of an application under Section 24 of the Code of Civil Procedure.

Having heard the learned Lawyers appearing for the parties and considering the circumstances as

demonstrated by the petitioner in her revisional application I think that it will be wise to withdraw the aforesaid matrimonial suit from the Court of the learned District Judge, Murshidabad at Berhampore and transfer the suit to the Court of the learned District Judge, Paschim Bardhaman at Asansol.

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

Let the Matrimonial Suit, being No. 69 of 2022 be withdrawn from the Court of the learned District Judge, Murshidabad at Berhampore and the suit be transferred to the Court of the learned District Judge, Paschim Bardhaman at Asansol for disposal.

Learned District Judge at Asansol, may dispose of the suit either himself/herself or transfer the suit to any of the competent Courts at the station for disposal.

The learned District Judge, Murshidabad at Berhampore is directed to transmit the case record of the matrimonial suit to the transferee Court immediately after receipt of a copy of the order.

With the aforesaid direction, C.O. 1210 of 2022 stands disposed of.

There will, however, be no order as to costs.

Let a copy of this order be communicated to both the Courts below for information and compliance.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis upon compliance of all formalities.

(Rabindranath Samanta, J.)