

125.
16-08-2022
debajyoti
(Ct. no.14)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
Appellate Side**

CO 1219 of 2022

**Smt. Rinki Dutta (Paul) @ Rinky Dutta (Paul)
Vs.
Mrinal Dutta**

Mr. Abhisek Banerjee,
Ms. Sanchita Banerjee (Ghosh)
... For the Petitioner.

Mr. Madan Mohan Roy,
Mr. Hari Pada Nayak
... For the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Matrimonial Suit No.852 of 2022 from the Court of learned Additional District Judge, 10th Court, Alipore to the Court of learned District Judge, Howrah.

It is stated by the petitioner that her marriage with the opposite party was solemnized on 29th November, 2013 and the marriage between them was registered under the Special Marriage Act, 1954. The marriage between them was consummated. Out of her wedlock with the opposite party, she gave birth to a male child, namely, Ritam Dutta on 1st December, 2014. The petitioner avers that after the child became two years old, they noticed that the child was not behaving normally. The petitioner submits that after the child was treated by specialist doctors, it was found that the child fell under the category of Moderate Mental Retardation. In medical parlance, it may be called that the child bore the sign of Autism. The petitioner complains that because of the aforesaid deficiency of the growth of the child, the opposite party subjected her to torture. Under such

compelling circumstances, she is now residing at her parental home at Village-Khantara, P.S. Domjur, District – Howrah. The petitioner states that she came to know that the opposite party brought a Matrimonial Suit being No.852 of 2022 in the Court of learned District Judge, South 24-Parganas at Alipore and the said suit is now pending in the Court of learned Additional District Judge, 10th Court, Alipore. The petitioner states that it will be a hardship for her to appear the Court at Alipore to attend the matrimonial proceedings, leaving her ailing child at her parental home. Hence, the prayer.

Admittedly, the petitioner is a legally married wife of the opposite party. It is also an admitted fact that out of her wedlock with the opposite party, she gave birth to a male child on 1st December, 2014. From the medical papers annexed to the application, it appears that the child falls under the category of “Moderate Mental Retardation”. As the other medical paper indicate, the child also shows the signs of Autism.

As I find, under compelling circumstances, the petitioner is now residing at her parental home at aforesaid address.

Learned lawyer for the opposite party opposes the prayer of the petitioner. However, learned lawyer fairly submits that if the Court transfers the Matrimonial Suit to the Court of learned District Judge, Howrah, the suit shall be disposed of within the month. Lastly learned lawyer submits that since his client has not filed affidavit-in-opposition, the averments in the application be deemed to have been denied.

Having heard learned lawyers, appearing for the parties and considering the balance of convenience and

inconvenience of the parties, I feel that it would be wise to withdraw the Matrimonial Suit from the Court of Additional District Judge, 10th Court at Alipore and transfer the same to the Court of learned District Judge, Howrah.

With the aforesaid observations, the revisional application being C.O.1219 of 2022 is allowed.

Let the Matrimonial Suit No.852 of 2022 be withdrawn from the Court of learned Additional District Judge, 10th Court at Alipore and the same be transferred to the Court of learned District Judge, Howrah, for disposal. The learned District Judge, Howrah may dispose of the suit either himself or herself or transfer the suit to any of the courts of the learned Additional District Judge at Howrah for disposal.

The learned transferee court is directed to make all endeavours so that the Matrimonial Suit may be disposed of within six months from the date of communication of this order. The learned Additional District Judge, 10th Court, Alipore, is directed to transmit the case records of the Matrimonial Suit to the learned transferee court immediately after receipt of a copy of this order. Let a copy of this order be communicated to the learned Courts below forthwith.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Rabindranath Samanta, J.)