

24-06-2022
Item no.23
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO. No.1410 of 2022
Mou Banerjee (Ganguly)
-vs-
Arko Ganguly

Mr. Shyamal Kumar Pandey
Mr. Somnath Ganguly ...for the petitioner

Mr. Pradyat Saha ...for the opposite party

This revision arises out of an application under section 24 of the Code of Civil Procedure, 1908 seeking transfer of a matrimonial suit from the court of learned Additional District Judge, 9th court at Alipore, South 24-Parganas to the court of learned District Judge at Bankura.

It is stated by the petitioner, Mou Banerjee (Ganguly), that her marriage with the opposite party was solemnized on February 18, 2017 according to the Hindu rites and customs. After their marriage, they lived together and their marriage was consummated.

The petitioner complains that the opposite party never informed her that he married another lady earlier and divorced her. The petitioner alleges that soon after her marriage, the opposite party subjected her to cruelty. Unable to bear with the torture, she left her matrimonial home and started residing at her parental home at 4E, Block II, Sonali Abasan, P.S. Bankura Sadar, district Bankura. In order to sustain her livelihood, the petitioner has filed an application under section 125 CrPC registered as Misc. Case No.8/07/2022 against the opposite party seeking maintenance allowance and this case is pending in a court of learned Judicial Magistrate at Bankura.

The petitioner submits that after getting summons, she came to know that the opposite party has filed a matrimonial suit being Mat. Suit No.323 of 2022 in the court of learned District Judge, South 24-Parganas at Alipore and the suit was transferred to learned Additional District Judge, 9th Court, Alipore. The petitioner states that her father died on March 9, 2018 and her mother died on February 29, 2020. The distance between her parental home and the court at Alipore is nearly 220 kms. The petitioner has no source of income of her. In such circumstances, it will be hardship for her to travel a long distance to attend the matrimonial proceeding before the aforesaid court at Alipore. Hence the prayer for transfer.

Learned lawyer appearing for the petitioner submits that the circumstances as depicted in the application do justify that the matrimonial suit should be transferred from the Alipore court to the court of learned District Judge, Bankura.

Though no affidavit-in-opposition has been filed on behalf of the opposite party, learned counsel for the opposite party denies the averments/allegations as made in the application. Learned counsel for the opposite party submits that the petitioner carries on a business and it will not cause any inconvenience for her to turn up before the court at Alipore.

What I find, a maintenance case under section 125 CrPC brought by the petitioner against the opposite party is pending in a court of learned Judicial Magistrate at Bankura. That being so, the opposite party is to appear before the court of learned Judicial Magistrate at Bankura. It is not in dispute that the petitioner has lost her parents and the distance between the petitioner's paternal home and the court at Alipore is nearly 220 kms. It is a legal

principle that inconvenience of a wife should be treated as paramount consideration in disposing of an application under section 24 CPC.

Having heard learned counsels appearing for the parties and considering the facts and circumstances as narrated in the application, I feel that it would be wise to withdraw the matrimonial suit from the court at Alipore and transfer the case to the court of learned District Judge, Bankura for disposal.

Accordingly, the revisional application is allowed.

Let the matrimonial suit being Mat Suit No.323 of 2022 be withdrawn from the learned court of Additional District Judge, 9th Court at Alipore and be transferred to the learned District Judge, Bankura for disposal.

The learned District Judge, Bankura may either dispose of the suit himself/herself or transfer it to any of the courts of learned Additional District Judge, Bankura for disposal.

The learned Additional District Judge, 9th Court at Alipore is directed to transmit the case record of Mat. Suit No.323 of 2022 to the learned transferee court immediately after receipt of a copy of this order.

Let a copy of this order be communicated to both learned courts below forthwith.

Thus, CO No.1410 of 2022 stands disposed of. No order as to costs.

[Rabindranath Samanta, J]

