

Ct. 25.8
No. 2022
14

C.O. 1244 of 2021

Smt. Swarna Prova Routh Biswas
-Versus-

Indrajit Biswas

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akb

Mr. Sovan Dasgupta
Mr. Amitest Dasgupta
Ms. Swagata Sen

...For the Petitioner

Affidavit-of-service filed on behalf of the petitioner be kept on record.

It appears from the affidavit-of-service that despite service of notice upon him, there is no representation on behalf of the opposite party.

Accordingly, the revisional application under Section 24 of the Code of Civil Procedure is taken up for hearing in absence of the opposite party.

The petitioner states that she was married to the opposite party on 29th May, 2011. Their marriage was duly consummated and out of her wedlock with the opposite party, she gave birth to a female child, who is now seven years old.

It is alleged by the petitioner that opposite party subjected her to cruelty by various ways and because of the torture inflicted upon her, she had to leave her matrimonial home and started residing at her parental home at Railway Barack Colony, 286/A Jhaljhalia, P.S. Englishbazar, P.O. Jhaljhalia, District – Malda. The father of the petitioner is now dead. On the demise of her father, her mother got job as a ‘Group D’ staff under Dying in Harness Scheme. The petitioner has no source of income.

To sustain livelihood of her daughter and herself,

she has filed a maintenance case under Section 125 of the Code of Criminal Procedure seeking maintenance allowance from the opposite party and this case is pending in the Court of the learned Judicial Magistrate, 1st Court, Malda.

The petitioner states that the opposite party filed a matrimonial suit, being No. 413 of 2020 under Section 9 of the Hindu Marriage Act, seeking restitution of conjugal right, in the Court of the learned Additional District Judge, 2nd Court at Bongaon, North 24-Parganas. The distance between her parental home and the Court at Bongaon is more than 300 kms.

Under the circumstances as stated above it will be hardship for her to appear before the concerned Court at Bongaon to participate in the matrimonial proceeding. Hence, the prayer.

Since, the opposite party has chosen not to contest the revisional application, it will be deemed that the averments as made in the revisional application remain uncontroverted.

What I find the averments made in the revisional application that the petitioner is legally married wife of the opposite party and out of her wedlock with the opposite party she gave birth to a female child. It further appears that the petitioner under some compelling circumstances had to leave her matrimonial home and started residing at her parental home. As averred by the petitioner, she has no source of income and her father is now dead. Her mother is now employed as a 'Group D' staff on the demise of her father under the Scheme of Dying in Harness. These

circumstances demonstrate that it will be hardship for her to travel a long distance to appear before the concerned Court at Bongaon to participate in the matrimonial proceeding.

Therefore, the revisional application is allowed.

Let the Matrimonial Suit, being No. 413 of 2020 be withdrawn from the Court of the learned Additional District Judge, 2nd Court at Bongaon, North 24-Parganas and the suit be transferred to the Court of the learned District Judge, Malda for disposal.

Learned District Judge at Malda, 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 Additional District Judge, 2nd Court at Bongaon, North 24-Parganas 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. 1244 of 2021 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.)