

S/L 4
01.9.2022
Court No.652
SD

CO 1333 of 2021

Rima Kole
Vs.
Manas Koibarta

Mr. Suddhadeb Adak

...for the Petitioner.

Mr. Soumik Ganguly

...for the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure is at the instance of the wife/petitioner seeking transfer of Title Suit No.64 of 2020 pending in the Court of learned Civil Judge (Junior Division) at Bishnupur to the Court of learned Civil Judge, Arambagh at Hooghly.

The petitioner has contended that the opposite party herein had preferred a petition under Section 34 of the Specific Relief Act praying for declaration of no marriage with the petitioner herein, being Title Suit No.64 of 2022. The opposite party/plaintiff married with the petitioner herein on 22.4.2019 as per Hindu rituals and customs and after marriage the petitioner was peacefully residing at with the opposite party in her father in laws house at Kotulpur, Bankura.

Mr. Suddhadev Adak, learned counsel appearing on behalf of the petitioner submits that opposite party/plaintiff with a mala fide intention instituted the aforesaid Title Suit No.64 of 2020 before the court of learned Civil Judge (Junior Division) at Bishnupur knowing fully that the

petitioner presently residing with her father at Khanakul, Hooghly and a large part of the alleged cause of action arose in the district of Hooghly.

The petitioner/defendant herein filed a criminal case under Section 498A/406 of the Indian Penal Code before the Khanakul Police Station and the said case is pending before the court of learned ACJM, Arambagh, Hooghly. The petitioner/defendant herein had filed another Misc. Case No.37 of 2021 under Section 12 of the Protection of Women from Domestic Violence Act which is also pending before the learned ACJM, Arambagh, Hooghly.

Mr. Adak further submits that the opposite party had chosen a forum in utter disregard of the convenience of both the parties for an ulterior motive. The petitioner, being an college student, has to travel a long distance to attend the proceedings before the Court of Bishnupur, Bankura and the same day she has to return her house at Khanakul, Hooghly. For this purpose, the petitioner has to take her other family members to accompany her to reach the court situated within Bankura district.

Furthermore, the petitioner remains apprehensive about her safety while attending the trial court and she is also apprehensive about some mischief that might be attempted to cause by them. Accordingly, the balance of convenience and inconvenience is in favour of the petitioner and the petitioner will suffer more inconvenience and hardship if the instant matrimonial suit be not transferred to

the court of learned Civil Judge, Arambagh at Hooghly. Accordingly, the petitioner has prayed for transferring the case from the court of learned Civil Judge (Junior Division), Bishnupur at Bankura to the court of learned Civil Judge, Arambagh at Hooghly.

Mr. Somik Ganguly, learned advocate for the opposite party, submits that the distance between Bishnupur at Bankura and the court of Arambagh is about 30 kms. and it takes hardly 30 minutes to travel from one court to the other. Accordingly, there is no justification for praying the aforesaid transfer by the petitioner and the prayer made by the petitioner should be rejected.

He further submits that the proceeding under Section 498A of the Indian Penal Code initiated by the petitioner/wife and pending before the learned ACJM, Arambagh has been stayed by the Hon'ble High Court at Calcutta.

Having considered the aforesaid facts and circumstances of the case and that admittedly the petitioner/wife is an unemployed college student and the court where the suit is presently pending is at least 30 kms. away from her residence, I find that the balance of convenience and inconvenience leaves in favour of the petitioner herein and as such, her prayer is required to be allowed.

Accordingly, this court directs that the Title Suit No.64 of 2020 be withdrawn from the Court of learned Civil

Judge (Junior Division) at Bishnupur, Bankura and be placed before the learned District Judge, Hooghly who in turn shall assign the same before the Court of learned Civil Judge (Junior Division), Arambagh, Hooghly for the purpose of disposal of the title suit within a period of two weeks from the date of communication of the order.

The learned Transferee court is requested to give fresh notice to the parties before proceeding with the trial of the title suit.

With these observations, C.O. 1333 of 2021 is disposed of.

Liberty is granted to the petitioner to communicate this order to the learned Court below.

There will be no order as to costs.

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

(Ajoy Kumar Mukherjee, J.)