

Ct. 28.7
No. 2022
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C.O. 1639 of 2022

Harjit Kaur Anand
-Versus-
Bhupinder Singh Chhabra

Mr. Syed Nurul Arefin
Ms. Saswati Chatterjee
Mr. Rahul Singh **...For the Petitioner**

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

Despite service of notice upon him, there is no representation on behalf of the opposite party.

This revisioinal application under Section 24 of the Code of Civil Procedure has been filed seeking transfer of a matrimonial suit from the Court of the learned Additional District Judge, Siliguri, Darjeeling, to the Court of the learned competent Court at Kolkata.

Learned Lawyer appearing for the petitioner submits that it will be hardship for the petitioner to travel a long distance to appear before the learned Additional District Judge at Siliguri to attend the matrimonial proceeding.

Learned Lawyer further submits that the facts and circumstances as narrated in the application demonstrate that the petitioner has made out a good case seeking transfer of the matrimonial suit.

It is stated by the petitioner, Harjit Kaur Anand that her marriage with the opposite party, Bhupinder Singh Chhabra was solemnized on April 18, 2010 according to Hindu Rites and Customs. After her marriage she started residing at her matrimonial home at Siliguri. The petitioner complains that after her marriage, the opposite party

subjected her to cruelty by various means. Ultimately, the opposite party abandoned her. Getting no other alternative, she took shelter at her parental home. Now she is residing at her parental home at 11, Dacres Lane, 3rd Floor, Kolkata – 700 069. The petitioner came to know that the opposite party brought a matrimonial suit, being No. 45(2) of 2020 against her in the Court of the learned Additional District Judge, 1st Court at Siliguri seeking dissolution of marriage.

The petitioner submits that the distance between her parental home and the Court at Siliguri is about 600 kms. It will be hardship for the petitioner to travel the long distance alone to appear before the Court at Siliguri to participate in the hearing of the matrimonial suit. Hence, the prayer.

Since, the opposite party has chosen not to contest the revisional application, it will be presumed that the averments and allegations as made in the application by the petitioner remain uncontroverted.

This Court can take judicial notice that the distance between Kolkata and Siliguri is nearly 600 kms. In such situation, it will be indeed hardship for the petitioner to attend the Court at Siliguri for the aforesaid matrimonial suit.

In a plethora of decisions the Hon'ble Apex Court as well as this Hon'ble High Court have held that inconvenience of wife shall be of paramount consideration while disposing of an application under Section 24 of the Code of Civil Procedure.

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

Let the Matrimonial Suit, being No. 45(2) of 2020 be withdrawn from the Court of the learned Additional District Judge, 1st Court at Siliguri and the suit be transferred to the learned Principal Judge, Family Court-I, Kolkata for disposal.

The learned Additional District Judge, 1st Court at Siliguri, Darjeeling 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. 1639 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.)