

28-07-2022

Item no.80

Subrata

IN THE HIGH COURT AT CALCUTTA

Civil Revisional Jurisdiction

CO No.1417 of 2021

Smt. Dipika Bhaduri

-VS-

Brajanath Bhaduri

Ms. Sayanti Santra

...for the petitioner

Affidavit of service filed in court be taken on record.

It appears from the affidavit of service that notice has duly been served upon the opposite party as well as learned counsel who represents the opposite party before the learned court below. Despite notice, there is no representation on behalf of him. Hence the revisional application is taken up for hearing in absence of the opposite party.

The petitioner in this revisional application under section 24 of the Code of Civil Procedure, 1908 is seeking transfer of a matrimonial suit filed by the opposite party from the court of learned District Judge, Paschim Bardhaman at Asansol to the learned District Judge, South 24 Parganas at Alipore.

The petitioner states that her marriage with the opposite party was solemnized on June 1, 1996 according to Hindu rites and customs.

The petitioner complains that the opposite party subjected her to cruelty, both physically and mentally by various ways. Unable to bear with the torture meted out to her, she had to leave her matrimonial home and started residing at her sister's matrimonial home, on her mercy, at 114/1, Becharam Chatterjee Road, Mohan Dham, P.O. Sarsuna, P.S. Parnasree, Behala, Kolkata-61, since her

parents are no more. The petitioner complains that due to intense torture inflicted upon her by the opposite party, she is suffering from neurological problems.

After getting summons, the petitioner came to know that the opposite party brought a matrimonial suit being No.517 of 2020 against her in the court of learned District Judge, Paschim Bardhaman at Asansol seeking dissolution of marriage between them.

The petitioner states that the distance between the place where she resides at present and the concerned court at Asansol is about 220 kms. and that she is suffering from neurological problems. Her parents are no more. Under such circumstances, it will be hardship for her to appear before the concerned court at Asansol to attend the matrimonial proceeding. Hence this prayer.

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

What I find from the uncontroverted averments in the s.24 CPC application and the materials on record, the petitioner under compelling circumstances had to leave her matrimonial home and now she resides at the matrimonial home of her sister at Behala. The distance between the place where the petitioner resides and the concerned court at Asansol is about 220 kms. The petitioner's parents are dead. All these demonstrate if the petitioner is to appear before the court at Jhargram, she will face immense hardship.

In a catena of decisions, the Hon'ble Supreme Court as well as this court has held that inconvenience of the wife should be of paramount consideration while disposing of an

application under section 24 of the Code.

In view of the above, the revisional application is allowed by the following order.

Let the matrimonial suit being No.517 of 2020 be withdrawn from the court of learned District Judge, Paschim Bardhaman, Asansol and the suit be transferred to the court of learned District Judge, South 24 Parganas at Alipore for disposal.

The learned District Judge, South 24 Parganas may either dispose of the said suit himself/herself or transfer it to any of the courts of learned Additional District Judge at Alipore.

The learned District Judge, Paschim Bardhaman, Asansol is directed to transmit the case record of the aforementioned matrimonial suit to the transferee court immediately after receipt of a copy of this order.

The department is directed to communicate a copy of this order to both the learned courts below forthwith.

With the above, CO No.1417 of 2021 stands disposed of. Consequently, the connected application (CAN No.1 of 2022) is disposed of. No order as to costs.

[Rabindranath Samanta, J]

