

21.09.22
SI-122
Ct.652
(S.R.)

C.O. 1736 of 2022
with
IA No. CAN 1 of 2022 (not found)
Swagata Singha (Roy) @ Swagata Singha
v.
Sri Avijit Singha

Mr. Kallol Mondal
Mr. K. Ray
Mr. Souvik Das
Mr. Anamitra Banerjee ... for the petitioner.

Mr. Soumyajit Das Mahapatra
Ms. Oindrila Ghosh ... for the opposite party.

Affidavit of service filed by the petitioner be kept with the record.

This is an application under Section 24 of the Code of Civil Procedure for transfer of J. Misc. Case No.25 of 2022 from the Court of Learned District Judge, Paschim Medinipur to the Court of Learned District Judge at Barasat, North 24-Parganas.

The petitioner contended that the marriage between the petitioner and the opposite party was solemnized on 20th May, 2014 as per Special Marriage Act, 1954. They are blessed with a female child who is now under the custody of mother/petitioner. Moreover, one proceeding under Section 125 of the Criminal Procedure Code initiated by the petitioner herein is pending before the Learned Additional Judicial Magistrate, Barrackpore being Misc. Case No.799 of 2021 and another proceeding initiated by the petitioner under Sections 12/23 of the Protection of Women from Domestic Violence Act, 2005,

before the Learned Additional Judicial Magistrate, Barrackpore being Misc. Case No.211 of 2021. Subsequently, another criminal proceeding under Sections 498A/406/307 initiated by the petitioner herein, being Titagarh Police Station Case No.729 of 2021 is also pending before the Learned Additional Chief Judicial Magistrate, Barrackpore. The petitioner further submits that the distance involves between the present residence of the petitioner and the Court of the Learned District Judge, Paschim Medinipur is about 150 kilometers. Moreover, while disposing of C.O. 55 of 2022, this Court has already transferred the Matrimonial Suit initiated by the husband/opposite party to the Court of Learned Additional District Judge, Barrackpore from the Court of Learned Additional District Judge at Medinipur. He further submits that under Section 9(1) of the Guardian and Wards Act, the Learned Additional District Judge, Barrackpore has got the territorial jurisdiction to try the said proceeding, as ward is residing with petitioner within the jurisdiction of that Court.

Learned advocate appearing on behalf of the opposite party opposed the prayer made by the petitioner in respect of aforesaid transfer.

Having considered the facts and circumstances of the case and that the petitioner is an unemployed lady and that the distance involves between the two places is about 150 kilometers and that other three proceedings are pending before the Court at Barrackpore and that the

Matrimonial Suit filed by the husband has already transferred to the Court at Barrackpore where opposite party is supposed to attend and that the concerned Court has got the territorial jurisdiction to try the present case, and in view of the fact that the ward in question is under the custody of the petitioner, I find that this is a fit case to allow the prayer made by the petitioner.

The Learned District Judge Paschim Medinipur is directed to withdraw the Misc. Case No.25 of 2022 from the Court of Learned District Judge Paschim Medinipur and to transmit the same to the Court of Learned District Judge at Barasat, North 24-Parganas within a period of three weeks from the date of communication of the order.

The Transferee Court shall take up further proceeding of the case after serving fresh notice upon both the parties intimating next date of hearing.

C.O. 1736 of 2022 is, accordingly, disposed of.

Department is directed to serve a copy of this order to the Learned District Judge, Paschim Medinipur as well as the Learned District Judge, Barasat.

(Ajoy Kumar Mukherjee, J.)