

2.9.2022  
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Ct. no. 652  
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**C.O. 1526 of 2021**

**Manoni Majumder Pramanick  
Vs.  
Kartick Majumder**

Mr. Atis kumar Biswas  
Mr. Amit Singh  
Ms. Jyoti Agarwal                      ...for the petitioner

Affidavit of service filed by the petitioner, be kept with the record. Opposite party is not represented.

This application under Section 24 of the Code of Civil Procedure has been initiated for transferring the matrimonial proceeding being MAT suit no. 843 of 2020 pending before the Court of the Learned District & Sessions Judge, North 24 Parganas, Barasat to the court of learned District Judge, Nadia at Krishnanagar.

The petitioner contended that the marriage between the petitioner and the opposite party was solemnised on 15<sup>th</sup> July, 2016 as per Hindu Rites and Customs and they were blessed with a male child who was born on 28<sup>th</sup> June, 2018 and is staying under the care of the present petitioner. After marriage, the petitioner was subjected to mental and physical torture by her husband and her in laws on the demand of dowry and as such she is now staying at her parental house. Having no other alternative, the petitioner approached before the Chief Judicial Magistrate, at Nadia, Krishnanagar with an application under Section 125 of

the Code of Criminal Procedure being MR case no. 192 of 2019 praying for maintenance. The opposite party entered appearance in the said proceeding and also contesting the said proceeding. Now in order to frustrate the said maintenance proceeding, the petitioner filed the present matrimonial suit under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights before the learned District Judge, North 24 parganas at Barasat.

The petitioner submits that the petitioner is an introvert, village lady who feels quite uncomfortable to move alone from the remote village at Billagram, Nadia to the court of learned District & Sessions Judge, Barasat, due to her travel sickness tendency in public communication system and there is also no one in her family to accompany her to the court at Barasat in order to attend the proceeding with her minor child. The opposite party is not paying any single penny towards her maintenance and therefore the petitioner is quite unable to carry expenditure to travel and to attend the proceeding pending before the court of learned District Judge, Barasat. Practically distance in between the petitioner's house and the District court at Barasat is about 230 kilometres for making to and fro journey and travelling such a long distance in a crowded bus, with the child aged about 4 years is very hazardous for the petitioner. Accordingly, the petitioner has prayed for aforesaid matrimonial suit filed under Section 9 of the

Hindu Marriage Act filed by opposite party be transferred from the file of learned District Judge, Barasat to the court of learned District Judge, Nadia at Krishnanagar.

Having considered the facts and circumstances of the case and the submission made by the petitioner that a minor child of 4 years born out of wedlock is in the custody of the petitioner and also the distance involved between the two places, which is inconvenient for a lady to travel with a child of 4 years of age and considering convenience of wife/petitioner which is of paramount consideration and also financial hardship for non-payment of maintenance amount and that petitioner/wife already initiated proceeding under Section 125 of the Code of Criminal Procedure against husband/opposite party at Nadia, Krishnanagar which opposite party is required to attend, I am inclined to allow the prayer made by the petitioner.

In view of above, the learned District & Sessions Judge, Barasat is hereby directed to withdraw the matrimonial suit no. 843 of 2020 from his file and to send the same to the court of learned District Judge, Nadia at Krishnanagar for disposal, within a period of four weeks from the date of communication of the order.

Learned District Judge, Nadia at Krishnanagar in turn after receipts of case record will serve a fresh notice upon both the parties informing next date before continuance of further proceeding of the said suit.

The office is directed to communicate a copy of this order to both the learned District Judge, Nadia at Krishnanagar and the learned District & Sessions Judge, North 24 parganas at Barasat at the earliest.

Accordingly, C.O. 1526 of 2021 is disposed of.

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

**(Ajoy Kumar Mukherjee, J.)**