

07.04.2022
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C.O. 1496 of 2021

Smt. Divya Singh

-Vs-

Kaushik Dey

Mr. Rajat Dutta

... for the petitioner

Mr. Shubradip Roy

... for the opposite party

Mr. Rajat Dutta, learned advocate appears for the petitioner and Mr. Shubradip Roy, learned advocate appears for the opposite party.

Let the affidavit in opposition filed by the opposite party in court today be taken on record.

The application under Section 24 of the Code of Civil Procedure is taken up for hearing.

Heard the learned advocates for the parties.

The petitioner/wife has filed the present application under Section 24 of the Code of Civil Procedure praying for transfer of the Matrimonial Suit No. 66 of 2020 from the learned 1st Track 3rd Court at Asansol to the learned District Judge at Alipore at South 24-Parganas.

It has been contended by the petitioner/wife that even after separation with the opposite party/husband

she continued to reside in their matrimonial home situated at James Residency within the Police Station Haridebpur, Behala whereas the opposite party/husband started to live in his ancestral house at Asansol. The petitioner/wife has to come West Bengal after marriage otherwise she is an ordinary resident of Uttara Pradesh.

That after separation the opposite party/husband failed to maintain her and she has no income of her own as the contractual consultancy job with the N.G.O. has ended during the Covid pandemic situation. At present, she is unemployed and it would be physically and financially hardship on her part to go and contest the matrimonial suit filed by the opposite party/husband at Asansol court.

It has also been contended that she has filed a case under Sections 498A/406/34 of the Indian Penal Code against the opposite party/husband at Haridebpur Police Station and which is pending in Alipore court. She has also filed another criminal proceeding against her husband under the Domestic Violence Act, 2005 which is pending before the court of learned Chief Judicial Magistrate, Alipore.

On the other hand, the opposite party/husband by filing the affidavit in opposition has contended that the flat in which the petitioner/wife is residing belongs to his parents and they were allowed to stay there for

the convenience of their employment or job. That due to irreconcilable differences between the parties the opposite party/husband has to file divorce suit in the court of Asansol. The learned District Judge, Asansol directed him to deposit Rs. 2,500/- towards the conveyance and tiffin expenses of the wife for her attendance before the court, which he has duly complied.

The wife/petitioner is a M.B.A. professional with 11 years of experience with Splash International and where she works as a Senior H.R. Co-ordinator whereas the opposite party/husband has lost his job after the criminal case under Sections 498A/406/34 of the Indian Penal Code has been initiated against him on the complaint filed by the petitioner/wife. It would be hardship on his part to attend Alipore court all the way from Asansol and, therefore, he has prayed for rejection of the transfer application.

Perused the record and documents filed by the respective parties. From the document, it is seen that the petitioner/wife is a woman having some kind of means or having source of income. Be that as it may, the fact remains that there are two criminal cases pending against the opposite party/husband in different criminal courts at Alipore. So, this court is of the view that it would not make any difference to the opposite party/husband, if the matrimonial suit filed by him is

transferred from the learned 1st Track, 3rd Court, Asansol to the court of learned District Judge at Alipore at South 24-Parganas under which jurisdiction the petitioner/wife is presently residing, as presence of the opposite party/husband is inevitable in the criminal proceedings pending in Alipore Court.

Therefore, considering such facts, the application under Section 24 of the Code of Civil Procedure is hereby allowed.

Let the Matrimonial Suit No. 66 of 2020 be withdrawn from the learned Fast Track 3rd Court at Asansol and be transferred to the Court of learned District Judge, Alipore, South 24 Parganas, who may keep the said suit in his/her own file and may transfer the same to any other Court under his/her Judgeship competent to try and dispose of the said suit.

The learned Fast Track 3rd Court at Asansol shall transfer the records of Matrimonial Suit No. 66 of 2020 to the Court of the learned District Judge, Alipore, South 24 Parganas within a period of 30 days from the date of communication of this order.

The parties shall appear before the learned District Judge, Alipore, South 24 Parganas on 02.05.2022 irrespective of transfer of the records of the said matrimonial suit but only on the basis of sever copy of this order. The learned District Judge, Alipore, South 24 Parganas, shall act on such communication.

The transferee Court shall proceed to dispose of the said suit from the stage at which it has already reached.

The transferee Court is further requested to expedite disposal of the said matrimonial suit in accordance with law.

Accordingly, **C.O. 1496 of 2021** is disposed of.

Interim order, if any, stands vacated.

Connected application, if any, also stands disposed of.

There shall be no order as to costs.

Parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Kesang Doma Bhutia, J.)