

S/L 109
16.11.2022
Court No.652
SD

CO 1758 of 2022

Anindita Roy
Vs.
Amiya Kumar Nath

Ms. Pampa Dey (Dhabal)

...for the Petitioner.

*Mrs. Manju Agarwal
Mr. Bajrang Marut
Ms. Surabhi Baid*

...for the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner seeking transfer of Matrimonial Suit No.19 of 2014 from the Court of learned 15th Additional District Judge, at Alipore, South 24-Parganas to the Court of learned Additional District Judge, at Siliguri, Darjeeling.

The petitioner has contended that the marriage was solemnized between the parties on 13.3.2013 according to Hindu rites and customs. As the conjugal life was not happy, the petitioner lodged written complaint before the Siliguri Police Station being Siliguri Police Station Case No.131 of 2013 dated 27.7.2013 and the said case is pending before the learned Judicial Magistrate, 2nd Court at Siliguri.

The petitioner has initiated a matrimonial suit being Matrimonial Suit No.19 of 2014 before the learned District Judge at Alipore. It is submitted that when the said matrimonial suit was filed in the year 2014 the petitioner was residing at Alipore. But the presently the petitioner is

residing at Siliguri. Now, the petitioner is facing inconvenience in attending the said case at Alipore.

She further submits that the husband/opposite party is residing at Tripura which is evident from the address given by the opposite party/defendant in his written statement filed in the said suit. Accordingly, the petitioner submits that it would be convenient for both the parties if the aforesaid prayer for transfer is allowed.

Having considered the aforesaid facts and circumstances of the case and that the present petitioner presently residing at Siliguri and that the opposite party/husband is residing at Tripura and that one criminal proceeding which has been initiated by the petitioner is pending before the Siliguri Court where the opposite party would be required to attend, and that since neither party is presently residing within the jurisdiction of Alipur Court and since it would not cause prejudice to opposite party, who is residing at Tripura if the prayer for transfer is allowed, I am of the view that this is a fit case where prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Alipore is hereby directed to withdraw the Matrimonial Suit No.19 of 2014 from the Court of learned 15th Additional District Judge, at Alipore, South 24-Parganas and to transmit the same to the Court of learned District Judge, Darjeeling within a period of four weeks from the date of communication of the order. The learned District Judge, Darjeeling in turn will transfer

the same to the learned Additional District Judge, Siliguri having jurisdiction within a period of three weeks thereafter.

The transferee court shall give fresh notice intimating the next date of hearing upon both the parties before taking up for further proceeding of the suit.

Department is directed to serve a copy of this order to the learned District Judge, South 24-Parganas at Alipore as well as the learned District Judge, Darjeeling.

With these observations, C.O. 1758 of 2022 is disposed of.

There will be no order as to costs.

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

(Ajoy Kumar Mukherjee, J.)