

S/L 26
02.9.2022
Court No.652
SD

CO 1916 of 2022

Kabita Joyswal @ Kabita Jaiswal (Prosad)
Vs.
Tilok Joyswal

Mr. Santanu Mukherjee

...for the Petitioner.

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

In spite of service opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure is at the instance of the wife/petitioner seeking transfer of Matrimonial Suit No.179 of 2017 from the Court of learned District Judge, Uttar Dinajpur to the Court of learned District Judge, Malda.

The petitioner has contended that the petitioner got married with the opposite party on February 3, 2007 as per Hindu rites and customs and they are also blessed with female child who was born on January 23, 2009.

The opposite party being the husband has deserted the petitioner and their daughter, without any cogent reason and now filed this matrimonial suit under Section 13 of the Hindu Marriage Act for dissolution of the matrimonial tie.

It is further submitted that the petitioner has already initiated a proceeding under Section 125 of the Code of Criminal Procedure before the Court of learned Judicial

Magistrate, 2nd Court, Malda being M.R. No.307 of 2022 which is pending for disposal.

Petitioner has contended that in order to harass the petitioner, the opposite party has filed this case for dissolution of marriage at Uttar Dinajpur. The petitioner presently residing at Bulbulchandi within the district of Malda. The parents of the petitioner are suffering from old age ailments and it is very much inconvenient to attend the court at Raigunj as there is none to accompany the petitioner. The petitioner is an unemployed lady and is not in a position to incur traveling expenditure.

Petitioner contended further that the petitioner has not yet received any maintenance from her husband/opposite party. Accordingly, the petitioner has prayed for transferring the said matrimonial suit filed for dissolution of the marriage being Matrimonial Suit No.179 of 2017 from the Court of learned District Judge, Raigunj to the Court of learned District Judge, Malda.

Having considered the facts and circumstances of the case and also considering the distance involved in between the two places and that the petitioner is an unemployed lady and that in order to attend the Court at Raigunj, she is required to make to and fro journey for about 230 kms., I find the balance of convenience and inconvenience leans in favour of the petitioner as in such cases where husband has filed suit for divorce, convenience of wife is the paramount consideration. As such, her prayer is allowed.

Accordingly, the learned District Judge, Uttar Dinajpur is directed to withdraw the Matrimonial Suit No.179 of 2017 from his court and to send the said case record to the Court of learned District Judge, Malda for disposal and the learned District Judge, Malda on receipt of the said case record shall issue fresh notice to the parties before proceeding further with the matrimonial suit. The entire process of transfer shall be completed within a period of three weeks from the date of communication of the order.

Department is directed to send a copy of the order to the learned District Judge, Malda as well as learned District Judge, Uttar Dinajpur at Raigunj.

With these observations, C.O. 1916 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.)