

20-07-2022
Subha
Item
nos.15,16
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Special Civil Jurisdiction
Appellate Side

CRLCP 5 of 2022
in
CRR 1154 of 2021

In Re : An application for contempt of Courts Act, 1971 read with under Article 215 of the Constitution of India.

Smt. Ishani Ghosal
-versus-
The State of West Bengal & Ors.

Mr. Prithivijoy Das

....for the petitioner.

Learned advocate appearing for the petitioner draws the attention of this court to the order dated 16.12.2021 passed in CRR 1154 of 2021.

By the said order, Misc Case No. 200 of 2020 was transferred from the court of learned Judicial Magistrate, 1st Court, Howrah to the Family Court at Calcutta.

I find that the opposite party nos. 2 to 6 were represented at the relevant point of time when the order dated 16th December, 2021 was passed by this court.

Attention of this court has been drawn to the order dated 22nd June, 2022, wherein the learned Family Court, Calcutta observed that under Section 7 read with Section 8 of the Family Courts Act, 1984, the Family Court has no jurisdiction to register and try this case. The Family Court, Calcutta was already in seisin of the matrimonial discord so far as the matrimonial suit is concerned.

As such, this court by transferring the case records from the court of the learned Judicial Magistrate, 1st Court, Howrah was of the view that Section 26 of the P.W.D.V Act, 2005 should be applied in the facts and circumstances of the case which would be convenient to the parties.

The observation of the learned Family Court directing for registration of a fresh case is absolutely redundant and in ignorance of the provisions of the P.W.D.V Act, 2005. However, for advancing the cause of justice, I do not intend to prolong the issue with the Family Court, Calcutta at this stage when the lady is without any remedy before a court of law for the last two years.

Accordingly, the order dated 16th December, 2021 is modified to the extent that the records be transferred from the court of the learned Judicial Magistrate Court, 1st Court, Howrah to the learned C.M.M, Calcutta. The learned C.M.M, Calcutta would either himself or delegate to a learned Metropolitan Magistrate after issuing notice and ensuring the presence of the opposite parties.

It has been informed that the learned Family Court, Calcutta is retaining the records of Misc Case No. 200 of 2020. The same may be transferred to the learned C.M.M, Calcutta within a week from the date of the communication of this order.

With the aforesaid observations, CRLCP 5 of 2022 is disposed of.

Pending any other applications, if any, are consequently disposed of.

All concerned parties including the Family Court, Calcutta is directed to act on the server copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]