

5.9.2022
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Ct. no. 652
sb

C.O. 1969 of 2022

Smt. Moly Das nee Basak
Vs.
Sri Santanu Das

Mr. Sabyasachi Mukherjee
Mr. Bibek Dey
Mr. D. Chowdhury ...for the petitioner

Mr. Maidul Islam Gayal ...for the opposite party

Affidavit of service filed by the petitioner, be kept with the record.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Matrimonial suit no. 254 of 2022 pending before the court of learned Additional District Judge, Baruipur, South 24 Parganas to the court of learned principal Judge, Family Court-I at Kolkata.

The petitioner contends that the marriage between the parties was registered according to the Special Marriage Act 1954. The petitioner submits that after marriage, the petitioner was subjected to physical and mental torture by the opposite party and her in laws. As such petitioner was compelled to lodge a complain at Burtala Police Station on 3.3.2022 being Burtala Police Station case no. 54 of 2022 which is pending before the Additional Chief Metropolitan Magistrate, Kolkata. The

petitioner also filed a case under the protection of women from Domestic Violence Act 2005 being Misc. case no. 12 of 2022 which is also pending before the court of learned Metropolitan Magistrate, Kolkata. The petitioner further states that the petitioner being a woman is completely helpless and due to scarcity of money and ailments of her paternal family members, the petitioner is unable to attend before the court of learned Additional District Judge, Baruipur, South 24 Parganas. The petitioner has no sufficient income also. The distance from the present residence of the petitioner to the concerned Baruipur court is more or less 40 kilometres.

In this context the petitioner has relied upon a case law reported in ***Tejalben Vs. Mihirbhai Bharatbhai Kothari*** reported in **(2016) 3 SCC 69**.

Learned counsel for the opposite party submits that she is an employed lady having sufficient money to attend the court at Baruipur and there is no justification for the transfer as sought for by the petitioner.

Having considered the facts and circumstances of the case and distance involved in between the two places is about 40 kilometres, and that in such cases, convenience of petitioner /wife is of paramount importance and that two other proceedings initiated by petitioner before Metropolitan Magistrate where opposite party/husband would be required to attend, I am

inclined to allow the prayer made by the petitioner herein.

In view of the above, learned District Judge, south 24 parganas at Alipore is hereby directed to withdraw the Matrimonial suit no. 254 of 2022 from the file of learned District Judge, Baruipur south 24 parganas and to send the case record to the court of Principal Judge, Family court-I, Kolkata for disposal within a period of two weeks from the date of communication of this order. Learned Principal Judge, Family court-I, Kolkata after receipt of the record will serve a fresh notice upon both the parties before continuance of further proceedings of the aforesaid suit.

Accordingly, C.O. 1969 of 2022 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.)