

02.02.2022
Item No.6
Ct. No.7
CHC
(disposed of)

**C.O.1830 of 2021
(Physical Hearing)**

**Pompi Mondal
VS.
Bipon Chanda Roy**

Mr. Jayanta Narayan Chatterjee,
Ms. Jayashree Patra,
Ms. Pritha Sinha
...for the petitioner

Mr. Partha Sarathi Das
...for the opposite party

Affidavit-of-service furnished by the petitioner be
taken on record.

This is an application under Section 24 of the Code
of Civil Procedure, seeking transfer of Matrimonial
Suit No.1510 of 2021, being Suit for Dissolution of
Marriage by a Decree of Divorce under Section 13(ia)
(ib) of the Hindu Marriage Act, from the Court of
learned Additional District Judge, Fast Track Court-
4th, at Barrackpore, North 24 Parganas to the court of
learned Additional District Judge, Baruipur, South 24
Parganas.

Mr. Jayanta Narayan Chatterjee, learned advocate appearing for the petitioner submits that after being deserted by her husband, petitioner has been staying in her parental house. Petitioner has been staying apart from her husband for more than one year. In the meantime, petitioner has invited a criminal case under Section 498A I.P.C. and allied sections at Ghola Police Station. Petitioner has also filed a case for restitution of conjugal rights at Barrackpore. It is contended by the petitioner that husband/opposite party has filed a divorce case at Barrackpore Court, which is nothing but a counter productive.

As regards the grounds set out in the transfer application; long distance to be covered hardship, harassment, multiplicity of decisions and financial constraints are grossly focussed.

Per contra, Mr. Partha Sarathi Das, learned advocate for the opposite party submits that instant transfer application is harassive one. It is contended by opposite party that it would be quite disadvantageous for opposite party to participate in the hearing process of Mat.Suit, in the event of case being transferred to proposed place. The opposite party proposes for a neutral place, where justice may be dispensed with.

Having considered the rival submissions of the parties, it appears that both the parties are interested to protect their respective inconveniences and hardship, which is very common in a transfer application.

In a case of this nature, the fighting couple would address their respective grievance against each other, which is not to be addressed by this Court and it is, however, left to be addressed by the trial Court at the time of trial.

The advantages, disadvantages, comparative harassment of the parties to this case are of highest significance in this case. When learned advocate for the op/husband alternatively has proposed for selection of a neutral site, wherein justice is expected to be best sub-served with all fairness of the trial, the same has to be taken into account, vis-à-vis, the grounds set out in the transfer application.

Both the parties to this case, while fighting over the transfer application put much emphasis upon the long distance to be covered in the interest of participation at pending matrimonial suit.

Having considered the comparative advantages, disadvantages and harassment of the parties, the Court is of the view that Alipore Court, within the district South 24 Parganas would be the best option,

being the neutral site, and situated medially with respect to the present stay of this fighting couple.

It is also, however, suitably connected for availability of multiple conveyances to reach over there.

In that view of the matter, Alipore Court in all fitness of the things would be a best choice, where it is expected that the comparative disadvantages and harassment of the parties may be curtailed to a considerable degree, and a balance may be ensured between the two in this way.

With the discussion made hereinabove, the instant transfer application is disposed of directing learned Additional District Judge, Fast Track Court-4, Barrackpore, North 24 Parganas to transfer the Matrimonial Suit No.1510 of 2021 to the court of learned Additional District Judge, 2nd Fast Track Court, Alipore, South 24 Parganas, within six (06) weeks from date of communication of this order.

Both the parties are accordingly directed to ensure their respective appearance before the transferee court on 31st March, 2022.

Transferee Court, upon receipt of the case record, is directed to dispose of the pending Matrimonial Suit providing sufficient opportunities of hearing to either of the parties to this case.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)