

26.04.2022
Item no.13
Ct. No.21
Saswata

C.O. 1892 of 2021

Debasmita Chakraborty nee Sha

-vs-

Santanu Chakraborty

Mr. Tanmoy Chowdhury

Ms. R. Ghosh

... for the petitioner

The petitioner is represented by her advocate, Mr. Tanmoy Chowdhury.

The application under Section 24 of the Code of Civil Procedure is taken up for hearing.

The learned advocate for the petitioner/wife files affidavit-of –service along with postal receipt and track report showing due service of notice of this Court upon the opposite party who fails to appears before this Court today.

The petitioner/ wife has filed the present application under Section 24 of the Code of Civil Procedure seeking transfer of matrimonial suit being Mat Suit No. 439 of 2021 from the Court of learned Additional District Judge, 3rd Court, Alipore, South 24 Parganas to the Court of learned Additional District Judge, Serampore, Hooghly.

The marriage between the parties took place on 26/04/2019. After marriage, it was noticed by the petitioner/wife that her husband is impotent and alcoholic and he insisted the petitioner/wife to

consume liquor and when she resisted, she was subjected to both physical and mental torture. That, on 18.09.2020 she was driven out of her matrimonial home. Since then, she has been living in her paternal house with her parents at Serampore. The petitioner/wife has filed an application under Section 125 of the Cr.P.C. seeking maintenance from her husband and such case being Misc. Case No. 284 of 2020 is pending before the Court of learned Additional Chief Judicial Magistrate at Serampore, Hooghly which is being contested by her husband.

In the year 2021, the petitioner/wife filed a divorce petition under Section 13 of the Hindu Marriage Act against the husband/opposite party which is pending before the learned Additional District Judge, 1st Court at Serampore, Hooghly being MAT 694 of 2021. After the institution of such suit, her husband has filed MAT Suit no. 439 of 2021 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights which is pending before the Court of learned Additional District Judge, 3rd Court, Alipore, South 24 Parganas.

It has been contended that both the parents of the petitioner/wife are aged and ailing. She, being the only child has to take care of her parents. That, it would be of great hardship on her part to travel all the way from Serampore to attend the hearing of the case

in Alipore Court. That, it would be physically as well as financially hard on her part to conduct the case in Alipore. Therefore, she had prayed for transfer of Matrimonial Suit no. 439 of 2021 from the Court of learned Additional District Judge, 3rd Court, Alipore, South 24 Parganas to the Court of learned Additional District Judge, Serampore, Hooghly.

Considering the inconvenience of the petitioner/wife and the fact that she is a woman having no source of income of her own and that the husband is already contesting two different proceedings both against him in Serampore, the case is withdrawn from the Court of learned Additional District Judge, 3rd Court, Alipore, South 24 Parganas and transferred to the Court of learned Additional District Judge, Serampore, Hooghly.

The learned Additional District Judge, 3rd Court, Alipore, South 24 Parganas shall transfer the records of Matrimonial Suit No. 439 of 2021 to the Court of the of learned Additional District Judge, Serampore, Hooghly within a period of 30 days from the date of communication of this order.

The transferee Court shall proceed to dispose of the said suit from the stage at which it has already reached.

The parties shall appear before learned Additional District Judge, Serampore, Hooghly on 16.05.2022

irrespective of transfer of the records of the said matrimonial suit but only on the basis of sever copy of this order. The learned Additional District Judge, Serampore, Hooghly shall act on such communication.

The transferee Court is further requested to expedite disposal of the said matrimonial suit in accordance with law.

Accordingly, **C.O. 1892 of 2021** is disposed of.

Interim order, if any, stands vacated.

Connected application, if any, also stands disposed of.

There shall be no order as to costs.

Parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Kesang Doma Bhutia, J.)

