

Ct. 29.04
No. 21 2022
18
akb

C.O. 1901 of 2021
Smt. Minakshi Bhowmick nee Naskar
Vs.
Purandar Bhowmik

Mr. Asit Baran Raut
Mr. Tuhin Subhra Raut
Ms. Ishita Raut **...For the Petitioner**

Mr. Ranjan Kali
Ms./ Nabanita Dutta
Ms. Mitul Chakraborty **...For the Opposite Party**

Parties are represented by their respective learned lawyers.

It is to be noted the matter was fixed for hearing yesterday and learned Lawyer for the petitioner/wife was present, but no one was present from the side of the opposite party. After the matter was heard ex parte and after the departure of learned lawyer for the petitioner from the Court room, lawyer for the opposite party/husband entered and submitted that he could not come to the Court when the matter was called as display board was not working.

However, as per order previous order dated 05.04.2022 the opposite party was supposed to file affidavit along with medical papers to show opposite party had undergone bypass surgery recently yesterday, but learned lawyer for opposite party did not file affidavit he is supposed to file.

Be that as it may the matter is heard once again today.

Affidavit-in-opposition along with the medical documents filed by learned lawyer for the opposite party is taken on record.

On the other hand learned Lawyer for the petitioner also files medical papers of the petitioner but without being supported by any affidavit.

The petitioner/wife by filing the present application under Section 24 of the Code of Civil Procedure has prayed for transfer of Matrimonial Suit No. 83 of 2020 filed by the husband/opposite party herein from the Court of the learned Additional District and Sessions Judge, First Court at Jhargram to the learned District Judge, South 24-Parganas at Alipore.

It has been contended that the petitioner/wife was compelled to leave the matrimonial home long back in the year 2010. Since 2010, she has been living at her parental house situated at 23/2/1, Ashok Nath Shastri Road, Harinavi, Post Office – Harinavi under the jurisdiction of Sonarpur Police Station.

She has been living with her ailing mother aged about 84 years. She has no independent source of income of her own to maintain herself and as such she has to file a case under Section 125 of the Code of Criminal Procedure, being Misc. Case No. 267 of 2015 and which is pending in the Court of the learned Additional Chief Judicial Magistrate at Baruipur.

It has also been contended that it would be a great hardship for the petitioner/wife to travel all the way from Sonarpur to Jhargram Court and when there is no other male member in her family to accompany her to attend the Court at Jhargram regularly by covering a distance of about 200 kms. More so when she is diagnosed with ovarian cyst and fibrosis of uterus.

On the other hand it has been contended the

husband is suffering from cardiac ailments and recently he underwent surgery where stent were implanted. He underwent knee replacement surgery also. It would be physically punishable for him to attend the Court at Baruipur or at Alipore all the way from Jhargram. Thus, learned lawyer for the opposite party prays for rejection of the application.

On scanning the medical papers annexed with supplementary affidavit it appears the opposite party was admitted in CMC Vellore as well as Fortis for treatment of urology problem. He is undergoing treatment for psychiatric problem in the St. Joseph's Multi – Specialty Hospital, Midnapore. That he underwent eye treatment at Samanta Eye Care, Midnapore. Unfortunately, no medical papers have been filed to show the opposite party underwent bypass surgery or stent being implanted in the heart as submitted by learned lawyer for the opposite party.

Upon considering above facts this Court is of view it would be more inconvenient for the wife to attend the Court at Jhargram than husband attending the Court at Baruipur in the district of South 24 Parganas as it is the husband has to attend the Court at Baruipur in connection of 125 Cr.P.C. proceeding Thus, the application under Section 24 of the Code of Civil Procedure should be allowed.

Let the Matrimonial Suit No. 83 of 2020 be withdrawn from the Court of learned Additional District and Sessions Judge, First Court at Jhargram and be transferred to the Court of learned Additional District and Sessions Judge, Baruipur, South 24 Parganas.

The learned Additional District and Sessions Judge, First Court, Jhargram shall transfer the records of Matrimonial Suit No. 83 of 2020 to the Court of the learned Additional District and Session Judge, Baruipur within a period of 30 days from the date of communication of this order.

The parties shall appear before the learned Additional District and Sessions Judge, Baruipur on 06.06.2022 irrespective of transfer of the records of the said matrimonial suit but only on the basis of sever copy of this order. The Additional District and Sessions Judge, Baruipur shall act on such communication.

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

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

Accordingly, **C.O. 1901 of 2021** is disposed of. Interim order, if any, stands discharged.

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.)

