

26.9.2022
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Ct. no. 652
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C.O. 2239 of 2022

**Smt. Ipsita Mukherjee
Vs.
Sri Nilanjan Mitra**

Mr. Subrata Santra ...for the petitioner

Mr. Joyjit Roy Chowdhury ...for the Opposite party

This is an application under Section 24 of the Code of Civil Procedure for transfer the Matrimonial suit no. 516 of 2021 from the court of learned Additional District Judge, 9th Court, Alipore, 24 Pagaras (South) to the court of learned Additional District Judge, Durgapur.

The petitioner contended that the marriage between the parties was registered on 27.6.2012 under the provision of Special Marriage Act, 1954. Subsequently the husband/opposite party has filed matrimonial suit for restitution of conjugal right against the petitioner wife before the learned Additional District Judge, Alipore, 24 Pagaras (South) being Mat suit no. 516 of 2021 which is now pending before learned Additional District Judge, 9th Court, Alipore, 24 Pagaras (South) for disposal. As differences arose in the matrimonial life, the petitioner at present is residing at her father's residence at Durgapur, Paschim Bardhaman. The petitioner has filed a suit for dissolution of marriage under Section 27 of the Special

Marriage Act before the learned Additional District Judge, Durgapur which is registered as Mat suit no. 205 of 2021 and is now pending before the learned Special court-cum-learned additional District & Sessions Judge, Durgapur for disposal.

The petitioner further submits that since she has no financial capacity of her own and she is completely dependent upon her aged father for day to day expense of herself as well as for her baby, it would be impossible for her to travel to the court of Alipore from Durgapur to contest the Mat suit no. 516 of 2021 or any misc. case connected thereto. The petitioner's father is suffering from various ailments and the petitioner's baby is aged about three years only and there is no other member in her family to accompany her to Alipore court in order to contest the aforesaid Mat suit. The distance involved in between the Alipore court and the present residence of the petitioner is about 220 kilometres and accordingly the petitioner has prayed for aforesaid transfer.

Learned counsel for the opposite party submits that petitioner is not unemployed and that the petitioner has own brother who can very well accompany the petitioner. Moreover, the petitioner all along attended in the mediation proceeding which was going on at Alipore court and as such there is no need to transfer the aforesaid proceeding from Alipore court.

Having considered the facts of the case and that opposite party has not shown anything that the petitioner has any independent source of income and that she has to look after her baby aged about three years and that inconvenience caused to a female in travelling to another place for pursuing a matrimonial case in socio-economic situation prevailing in our country is much more than inconvenience caused to the husband, I find that this is a fit case where the prayer made by the petitioner is to be allowed.

Accordingly, C.O. 2239 of 2022 is allowed.

Learned District Judge, Alipore, 24 parganas is directed to withdraw the Mat suit no. 516 of 2021 from the court of learned Additional District Judge, 9th Court, Alipore, 24 Parganas (South) and to transmit the same to the court of learned District Judge, Paschim Burdwan at Asansol within a period of three weeks from the date of communication of the order.

The transferee court shall issue fresh notice upon both the parties intimating next date of hearing before proceeding further with the present suit.

The department is directed to send a copy of the order to the learned District Judge, 24 Parganas (South) at Alipore and learned District Judge, Paschim Burdwan at Asansol.

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.)