

S/L 69
22.9.2022
Court No.652
SD

CO 1972 of 2021

Sunanda Bhaskar (Joarder)
Vs.
Tanmoy Joarder

Mr. Dyutiman Banerjee

...for the Petitioner.

Mr. Soham Banerjee

...for the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner seeking transfer of Matrimonial Suit No.71 of 2019 from the Court of learned Additional District Judge, Ranaghat to the Court of learned District Judge, Murshidabad at Berhampore.

The petitioner has contended that the opposite party has filed a suit under Section 12 of the Hindu Marriage Act for nullity of marriage before the Court of learned Additional District Judge at Ranaghat being Matrimonial Suit No.71 of 2019.

The petitioner further submits that the marriage between the parties was solemnized on 24.01.2018 under the provisions of Hindu Marriage Act and after marriage the parties were residing as husband and wife. All on a sudden, the petitioner has received a summon of the aforesaid matrimonial suit. Actually, the opposite party and his family members had inflicted physically and mentally torture upon the petitioner since the inception of the marriage, demanding money and when it became impossible for the

family of the petitioner to pay further sum of money, she was not allowed to come back to her matrimonial house. Accordingly, the petitioner is now residing at Berhampore which situates at a distance of 200 kms. from the Court of Ranaghat. There is nobody to accompany the petitioner to attend the Court at Ranaghat since male members of her family are all employees in private companies.

Furthermore, the petitioner has no income of her own and is living at the mercy of her family members and as such, she is not in a position to bear the travel expenses. Petitioner further submits that she has already filed a suit for restitution of conjugal rights under Section 22 of the Special Marriage Act before the learned District Judge, Murshidabad where the opposite party has appeared and contesting.

Furthermore, the petitioner has also filed another application under Section 125 of the Code of Criminal Procedure before the learned Chief Judicial Magistrate, Berhampore which has been registered as MR No. 435 of 2019. Another proceeding under the provisions of Protection of Women from Domestic Violence Act, 2005 has also been initiated by the petitioner against the opposite party and which is also pending before the learned Chief Judicial Magistrate, Berhampore for adjudication and in all those cases, the opposite party would have required to appear.

Learned counsel appearing on behalf of the opposite party, submits that the prayer for transfer as made by the

petitioner, should not be allowed as the opposite party has to go to Berhampore in order to contest the other three proceedings and for which he has to incur lot of expense.

Having considered the aforesaid facts and circumstances of the case and the distance involved between the two places and that the petitioner is an unemployed lady having no other members in her family to accompany her and that other three proceedings are pending in the court of Berhampore and that in such cases, the convenience of the wife should be of paramount importance, the prayer made by the petitioner is allowed.

The learned District Judge, Nadia at Krishnagar is hereby directed to withdraw the Matrimonial Suit No.71 of 2019 pending before the court of learned Additional District Judge at Ranaghat and to transmit the same to the Court of learned District Judge at Murshidabad, Berhampore within a period of three weeks from the date of communication of the order.

The transferee court shall give fresh notice upon both the parties before taking up further proceeding of the suit.

Department is directed to serve a copy of this order to the learned District Judge, Murshidabad at Berhampore as well as the learned District Judge, Nadia at Krishnagar.

However, it is made clear that this order of transfer will not preclude the opposite to make prayer before the trial court for fixing date in conformity with the date of other proceedings.

With these observations, C.O. 1972 of 2021 is disposed of.

There will be no order as to costs.

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

(Ajoy Kumar Mukherjee, J.)