

04.11.2022
Item No.5
BR

CO 2311 of 2022

Sumana Sarkar (Dey)
Vs.
Biswajit Sarkar

Mr. Arif Ali

... for the Petitioner

Ms Shebatee Datta

...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure for transfer of the matrimonial suit no. 169 of 2018 pending before the learned Additional District Judge, Uluberia to a court having jurisdiction in Darjeeling or Kalimpong or Jalpaiguri district.

Petitioner wife has contended that the marriage between the parties was solemnized according to Hindu Rites and Customs on 19th November, 2013. It is alleged by the petitioner that soon after the marriage the petitioner was subjected to mental and physical cruelty. Subsequently, the opposite party has filed the present suit for dissolution of marriage which is pending before learned Additional District Judge at Uluberia. The petitioner is eager to defend the suit, but due to the distance involved between the two places, it has become impossible for the petitioner to defend the case in the Court of learned Additional District Judge at Uluberia, since the petitioner presently resides in Gangtok due to professional reasons. Petitioner is currently posted at the office of the Accountant General ,

Gangtok, Sikkim as an Assistant Audit Officer, Government of India and the distance between Uluberia court and Gangtok is more than 710 kms.

Petitioner further submits that in order to attend the Court proceeding the petitioner has to come on the date before the date of hearing by flight and has to stay at Howrah and on the date of hearing, she has to undertake one hour journey by car to Uluberia from howrah and after hearing has to leave for Gangtok on the next date by flight and for this reason she has to take leave for five to six days per hearing which is causing extreme inconvenience to her. The mode of transportation as well as frequent travelling is also not very much congenial. Furthermore, she needs to depend on a member of his family who can assist her to travel for such long distance on every occasion but unfortunately the petitioner is not blessed with any such member in her family. The travel expenditure involved is about Rs. 10,000/- per trip and due to persisting threat, it is not safe for the petitioner to travel alone. Accordingly, the petitioner has made the aforesaid prayer for transfer of the case.

Ms. Shebatee Datta, learned advocate appearing for the opposite party in her usual fairness submits that her client has got no objection if the suit is transferred in the Court of learned District Judge, Jalpaiguri.

Having considered the aforesaid facts and circumstances and also considering the inconvenience caused to a female in travelling to Uluberia from Gangtok, Sikkim, for pursuing suit

for dissolution of marriage initiated at the instance of husband, which is much more than inconvenience caused to husband and that husband has agreed to get it transferred at Jalpaiguri court, I find that this is a fit case where the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Howrah is hereby directed to withdraw the matrimonial suit no. 169 of 2018 from the Court of learned Additional District Judge, Uluberia and to transmit the same to the Court of learned District Judge, Jalpaiguri for disposal within a period of three weeks from the date of communication of the order. The transferee Court shall serve notice upon both the parties intimating next date of hearing before taking up further proceeding of the suit. The transferee Court is requested to make every endeavour to dispose of the suit at the earliest, preferably within a period of one year from the date of receipt of the record.

Department is directed to serve a copy of this order to the learned District Judge, Howrah and also to the learned District Judge, Jalpaiguri immediately.

Accordingly, CO No. 2311 of 2022 is disposed of.

Since affidavits are not being exchanged, the allegation levelled in the petition shall be taken as not admitted

Urgent photostat certified copy of this order, if applied for, be given to the learned advocate for the parties on usual undertakings.

(Ajoy Kumar Mukherjee, J.)