

S/L 4
11.11.2022
Court No.652
SD

CO 2321 of 2022

Soma Bishnu nee Dey
Vs.
Sri Sadhan Bishnu

Mr. Sourav Roy
Mr. Rajib Acharyya
Ms. A. Chakraborty

...for the Petitioner.

Mr. Shibaji Kumar Das
Mr. Ahshan Ahmed

...for the Opposite Party.

Supplementary affidavit filed by the petitioner in court today be kept with the record.

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.1295 of 2022 from the Court of learned 2nd Additional District Judge, Barrackpore to the Court of learned District Judge, at Alipore, South 24-Parganas.

The petitioner has contended that the marriage between the petitioner and the opposite party was solemnized according to Hindu rites and customs on February 18, 2018. The petitioner alleges that during her stay at her matrimonial home, the opposite party/husband used to ill treat her both mentally and physically and she had no privacy or freedom in her matrimonial home.

The petitioner submits that she is an unemployed lady and she has already filed a case under Section 125 of the

Code of Criminal Procedure claiming maintenance which is presently pending before the learned 5th Judicial Magistrate, Alipore, South 24 Parganas. It is alleged that in the meantime, in order to put the petitioner/wife in trouble, the opposite party/husband has filed the aforesaid matrimonial suit for dissolution of marriage, which is now pending before the learned 2nd Additional District Judge, Barrackpore, North 24-Parganas. She further submits that it would be absolutely hardship for her to travel alone from Kolkata to Barrackpore and communicate with the advocate therein. The maintenance case initiated is pending before the Alipore Court where the opposite party has already appeared and also contesting and as such, the petitioner has made the aforesaid prayer for transfer in Alipore court.

Learned counsel appearing on behalf of the opposite party submits that the Court at Sealdah situates close to Sealdah railway station which is in the mid point in between the Barrackpore and Alipore and it would be convenient for the opposite party if the said transfer is made to the court situates at Sealdah and it is also close to his present place of posting. In support of his contention, he has referred one judgment of this Court passed in CO 4569 of 2016 (Annu Sharma vs. Sri Sanjay Sharma).

Having considered the aforesaid facts and circumstances of the case and that the inconvenience likely to be faced if petitioner is required to attend Barrackpore Court from her present place of residence at Basdrani,

Kolkata, the prayer for transfer ought to be allowed. But at the same time while considering application for transfer the convenience of the husband cannot be totally overlooked. Here considering location, predominant factor is neither of the parties will have any cause to prejudice if said matrimonial suit is transferred to the court of Additional District Judge, Sealdah, as Sealdah Court situates almost in the mid point in between the two places as such I dispose of this application by transferring the said matrimonial proceeding from the court of learned 2nd Additional District Judge, Barrackpore to the Court of learned Additional District Judge at Sealdah.

In view of the above, learned District Judge, Barasat is hereby directed to withdraw the Matrimonial Suit No.1295 of 2022 from the court of learned 2nd Additional District Judge, at Barrackpore, North 24 Parganas and to transmit the same to the Court of learned District Judge, South 24-Parganas at Alipore within a period of three weeks from the date of communication of the order. The learned District Judge, Alipore in turn will transmit the same to the learned Additional District Judge, Sealdah having jurisdiction to try the case within a period of three weeks thereafter.

The transferee court at Sealdah shall give fresh notice intimating the next date of hearing upon both the parties before taking up for further proceeding of the suit.

Department is directed to serve a copy of this order to the learned District Judge, South 24-Parganas at Alipore as

well as the learned District Judge, North 24-Parganas at Barasat.

With these observations, C.O. 2321 of 2022 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.)