

08.06.2022
Sl. No.9
KS

C.O. 2182 of 2021

Koyel Mondal (Saha)
-Vs.-
Sukanta Saha

Mr. Amajit De
.....For the Petitioner
Md. Nurezaman
Mr. Jahangir Badsha
.....For the O.P.

Affidavit of service filed by the petitioner be kept on record.

This is an application filed under Section 24 of the Code of Civil Procedure seeking transfer of a matrimonial suit from a Court of Learned Additional District Judge, Purba Bardhaman, Burdwan to a Court at Durgapur, Paschim Bardhaman.

It is stated by the petitioner, Koyel Mondal (Saha) that she was married to the opposite party, Sukanta Saha on 25th May, 2014 according to the Hindu Rites and Customs and their marriage was registered on 16th August, 2014.

After solemnization of the marriage, she started living with the opposite party as his wife and their marriage was duly consummated. Out of the wedlock with the opposite party, the petitioner gave birth to a male child named, Arkodip Saha on 14th February, 2017.

Owing to matrimonial discord, the petitioner had to leave her matrimonial home and started to living at her parental home at Andal, Paschim Bardhaman.

Owing to financial stringency and to eke out her livelihood and the livelihood of her child, the petitioner has filed an application under Section 125 of the Code of Criminal Procedure in the Court of the Learned Additional Chief Judicial Magistrate, Durgapur and the application has been registered as Misc. Case No.296 of 2017. The opposite party, after entering appearance in the Misc. Case, is contesting the case.

All of a sudden, the petitioner, in the month of October, 2021, after receiving a copy of an application of a matrimonial suit came to know that her husband filed a matrimonial suit being No.446 of 2020 in the Court of the Learned District Judge, Purba Bardhaman, Bardhaman under Section 13(1) of the Hindu Marriage Act seeking dissolution of their marriage.

The father of the petitioner is an aged and ailing person and she has to look after her father. Her child is a school going boy. The distance between the place where the petitioner resides and the Court of the Learned District Judge, Bardhaman is nearly 90 Kilometres. Under the aforesaid circumstances, it will be hardship for the petitioner to travel nearly 90 Kilometers to attend the proceeding before the Court of the Learned District

Judge at Bardhaman. Under such circumstances, the petitioner seeks that the aforesaid matrimonial suit be withdrawn and transferred to the competent Court at Durgapur.

Learned lawyer appearing for the opposite party submits that there will be no difficulty or hardship for the petitioner to attend the Court of the Learned District Judge at Bardhaman, since she would not have to attend on regular basis but on some occasions to be fixed by the learned Court.

As I find from the documents on record, a maintenance case under Section 125 of the Code of Criminal Procedure filed by the petitioner is pending in the Court of the Learned A.C.J.M., Durgapur and the opposite party has entered appearance in the proceedings and he is contesting the case. This indicates that the opposite party will have to go to Durgapur to attend the maintenance proceeding.

Having heard the learned counsels appearing for the parties and considering the facts and circumstances as narrated in the application, I feel that it will be wise if the aforesaid matrimonial suit is withdrawn and transferred to the Court of the Learned Additional District Judge at Durgapur, Paschim Bardhaman, Bardhaman.

In view of the above, the application is allowed.

Accordingly, the Matrimonial Suit No.446 of 2020 now pending in the Court of the Learned Additional District Judge, 4th Court, Burdwan, Purba Bardhaman be withdrawn and the suit be transferred to the Court of the Learned Additional District Judge, Durgapur, Paschim Bardhaman for disposal.

Learned Additional District Judge, 4th Court, Burdwan, Purba Bardhaman, is directed to transmit the case records to the learned transferee Court forthwith on receipt of copy of this order.

Let a copy of this order be communicated to both the Learned Courts below.

The revisional application stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Rabindranath Samanta, J.)