

13.01.2022
Item No.17
Ct. No.7
CHC
(disposed of)

**C.O.2185 of 2021
(Via Video Conference)**

**Smt. Anindita Dutta
Vs.
Sri Manish Dutta**

Mr. Pinaki Ranjan Mitra
...for the petitioner

Mr. Prantick Ghosh
...for the opposite party

This is an application seeking transfer of Matrimonial Suit No.1374 of 2021, from the court of learned Additional District Judge, First Court, at Barasat to the court of learned District Judge, Alipore.

Mr. Mitra, learned advocate appearing for the petitioner/wife submits that petitioner/wife would be at her disadvantageous stage to participate in the hearing process of Matrimonial Suit at Barrackpore travelling a considerable journey alone, and at the same time keeping her minor child unprotected in her present house.

Taking the grounds of hardship, harassment, distance, the petitioner has proposed the instant transfer.

Per contrary, Mr. Prantick Ghosh appearing for the opposite party strongly opposes the transfer application submitting that there has been complete suppression of material facts, and for such material suppression the transfer application should be dismissed.

Mr. Ghosh, submits that previously the petitioner/wife filed a proceeding under Section 498A I.P.C. and allied sections against her husband at Barrackpore Court, and after full trial the husband/opposite party has been acquitted. Besides above, the petitioner has also filed a maintenance case under Section 125 Cr.P.C. at Barrackpore Court and in connection therewith her prayer for maintenance was refused, while the maintenance for the child was granted.

According to Mr. Ghosh, petitioner had no difficulty to participate in the hearing process of the above two litigations at Barrackpore Court. Thus according to Mr. Ghosh it is a purposive case intending to harass the husband.

Having considered the submission of learned advocate for both the parties, it appears that previously two other proceedings were initiated at the instance of wife at Barrackpore Court, and all such litigations already ended in ultimate disposal.

In a case like this, the comparative advantages, disadvantages and harassment of the parties are of highest significance. Though there has been some suppression of material facts as regards previous litigations and the place of institution of such litigations, but that would not per se prevent or prohibit a party from seeking transfer to a site favourable to his or her present situation, which has proximate and direct relevance to the instant transfer application. In view of the submission disclosed by both the parties, the Court is of the view that a neutral place would be the best choice to address the matrimonial differences between the parties. In that view of the matter, Sealdah Court would be the best option, which is having suitable connectivity for availability of multiple conveyances to reach over there. Sealdah Court is also located at such a location, where it is expected that the comparative disadvantages and harassment may be curtailed to a considerable degree, and in that event there will be no prejudice caused to either of the parties to this case.

With the discussion made hereinabove, the instant transfer application is disposed of directing learned Additional District Judge, First Court, Barasat to transfer the Matrimonial Suit No.1374 of 2021 to the court of learned Additional District Judge, 2nd Court,

Sealdah, within five (05) weeks from the date of communication of this order.

Both the parties are accordingly directed to ensure their respective appearance before the transferee court on 4th March, 2022.

Transferee Court, upon receipt of the case record, is directed to dispose of the pending Matrimonial Suit providing sufficient opportunities of hearing to either of the parties to this case.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)