

14-06-2022
Item no.33
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO. No.2231 of 2021
Moumita Hobiswashi (Ganguli)
-vs-
Kanti Lal Hobiswashi

Mr. Shibaji Kumar Das ...for the petitioner

Mr. Satyam Mukherjee
Ms. Sayani Ahmed ...for the opposite party

This is an application under section 24 of the Code of Civil Procedure, 1908 seeking transfer of a matrimonial suit filed by the opposite party-husband from the court of learned Additional District Judge FTC-I, Bongaon, North 24-Parganas to the court of learned Additional District Judge, Kalyani, Nadia.

It is stated by the petitioner-wife, Moumita Hobiswashi (Ganguli), that her marriage with the opposite party, Kanti Lal Hobiswashi, was registered on July 29, 2011 and solemnized as per the Hindu rites and customs on August 3, 2011. After their marriage, they lived together as husband and wife and their marriage was duly consummated.

The petitioner alleges that some time after her marriage, the opposite party drove her out of his house on December 12, 2020. Having no other alternative, the petitioner had to take shelter at her parental home and since then she resides there.

The petitioner states that after receiving a summons from a court of Bongaon, she came to know that her husband filed a matrimonial suit being No.455 of 2021 in the court of learned Additional District Judge, Bongaon and

the suit was transferred to the court of learned Additional District Judge, FTC-I, Bongaon. The distance between her parental home and the court at Bongaon is nearly 40 kilometres. It will be hardship for the petitioner to travel such a long distance to attend the matrimonial proceeding before the court at Bongaon. Under such circumstances, the petitioner prays for transfer of the matrimonial suit.

Learned counsel appearing for the petitioner submits that the marriage between the parties was consummated and though it is not pleaded by the petitioner, but, it is the fact that out of their wedlock, a daughter was born.

Learned counsel for the petitioner by citing a decision dated January 10, 2020 rendered in CO No.3963 of 2018 with CO No.3964 of 2018 submits that this court by referring to a plethora of decisions of the Hon'ble apex court has held that inconvenience of the wife should be treated as the prime consideration in a proceeding under section 24 CPC.

However, learned counsel appearing for the opposite party-husband opposes the prayer made by the petitioner.

Having heard learned counsels for the parties and considering the facts and circumstances as stated in the application as well as the decision cited, I feel that it would be wise if the aforesaid matrimonial suit is withdrawn from the concerned court at Bongaon and transferred it to the court of learned Additional District Judge, Kalyani.

Accordingly, it is ordered that Matrimonial Suit No.455 of 2021 [Kanti Lal Hobiswashi v. Moumita Hobiswashi (Ganguli)] pending in the court of learned Additional District Judge, FTC-I, Bongaon be withdrawn and be transferred to the court of learned Additional District Judge, Kalyani for disposal.

Learned Additional District Judge, FTC-I, Bongaon is directed to transmit the case records of the aforesaid matrimonial suit to the transferee court immediately after receipt of a copy of this order.

Learned transferee court shall make all endeavour to dispose of the suit as expeditiously as possible.

Let a copy of this order be communicated to learned courts below forthwith.

In view of the above, CO No.2231 of 2021 stands disposed of. No order as to costs.

[Rabindranath Samanta, J]