

10.03.2022
Item No.13
Ct. No.7
CHC
(disposed of)

**C.O.2284 of 2021
(Physical Hearing)**

**Suchismita Mazumder @ Ghosh
VS.
Sri Soumyadev Ghosh**

Mr. Avishek Guha,
Ms. Akansha Chopra
...for the petitioner

Mr. Rudra Jyoti Bhattacharjee,
Mrs. Debjani Ghosal
...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure, seeking transfer of Matrimonial Suit No.759 of 2021, from the court of learned Additional District Judge, 4th Court, Purba Bardhaman to Barasat Court.

Mr. Guha, learned advocate appearing for the petitioner submits that for some matrimonial differences, petitioner has been staying apart from her husband since July, 2021 under a compelling circumstances, and now living in her parental house at Barasat, purely at the mercy of her age old parents. She has no income of her own to maintain herself. In the meantime, petitioner has filed two cases against her husband; one under Section 125 Cr.P.C. praying for maintenance and another under the D.V. Act. Both such litigations are pending at Barasat Court.

It is contended by the learned advocate for the petitioner that petitioner would be in a very difficult state to participate in the hearing process of pending Matrimonial Suit at Bardhaman undertaking a journey of considerable distance, and also incurring necessary expenses therefor.

Taking such grounds of long distance to be covered, hardship, harassment, multiplicity of litigations, and financial constraints, the petitioner has proposed for the instant transfer.

Per contra, Mr. Bhattacharjee being assisted by Mrs. Debjani Ghosal appearing for the opposite party/husband submits that the instant transfer application is purely harassing one, and there is threat perception on the part of o.p./husband in the event of case being transferred to Barasat Court as proposed.

It is also contended by Mr. Bhattacharjee that the husband was forcefully detained in the parental house of the petitioner, and somehow he managed to escape. Previously, he was engaged in the Brainware, but now he is rendered jobless.

Disputing with the proposed transfer, Mr. Bhattacharjee innocuously proposes for transferring the case to a neutral site situated within Kolkata, but

not to Barasat Court, to which he has strong reservation.

Mr. Bhattacharjee, is thus fair enough to propose a neutral site for the smooth trial of pending Matrimonial Suit, and such proposal needs to be duly respected vis-à-vis the grounds set out in the transfer application.

In a case of this nature, the fighting couple would address their respective grievance against each other, which is not to be addressed by this Court and it is, however, left to be addressed by the trial Court at the time of trial.

Mr. Bhattacharjee has denied the allegations raised against the opposite party/husband, the same is left to be decided by trial Court, which cannot be a subject of consideration in this matter. The point raised by Mr. Bhattacharjee regarding threat perception of opposite party is not supported by any document, as such the same is without any relevance.

The advantages, disadvantages, comparative harassment of the parties are of highest significance in this case. In the fitness of things and to ensure a balance between the two, selection of a neutral site, wherein justice is expected to be best sub-served may

be a matter of good consideration vis-à-vis, the grounds set out in the transfer application.

Having considered the comparative advantages, disadvantages and harassment of the parties, the Court is of the view that Sealdah Court, within the district South 24 Parganas, would be the best option, being the neutral site, situated within Kolkata having availability of multiple conveyances to reach over there.

Thus it is expedient for the ends of justice that Sealdah Court in all fitness of the things would be the best choice, where it is expected that the comparative disadvantages and harassment of the parties may be curtailed to a considerable degree, and a balance may be ensured between the two in this way.

With the discussion made hereinabove, the instant transfer application is disposed of directing learned Additional District Judge, 4th Court at Purba Bardhaman to transfer the Matrimonial Suit No.759 of 2021 to the court of learned Additional District Judge, Fast Track Court-I, Sealdah within three (03) weeks from date of communication of this order.

Both the parties are accordingly directed to ensure their respective appearance before the transferee court on 6th April, 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.)