

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

Present :
The Hon'ble Justice Subhasis Dasgupta

C.O. 1423 of 2020

Smt. Somrita Mondal (nee Bisui).
-vs-
Sri Saikat Mondal.

For the Petitioner : Mr. Soumajit Das Mahapatra, adv.

For the Opposite party : Mr. Soumik Ganguli, adv.

Heard on : 31.01.2022

Judgement on : 03.02.2022

Subhasis Dasgupta, J.:

This is an application under Section 24 of the Code of Civil Procedure, seeking transfer of a Matrimonial Suit No 186 of 2020 for dissolution of marriage from the Court of learned District Judge, Bankura to the Court of learned District Judge, Paschim Midnapore.

Mr. Soumajit Das Mahapatra, learned advocate appearing for the petitioner submits that after being separated from her

husband, petitioner/wife has been staying in her parental house at Mirza Bazar within district Midnapore, Police Station-Kotwali, in a most neglected condition.

Petitioner/wife has been staying apart from her husband since February 2014, after being forcibly driven out by her husband from her matrimonial house.

In the meantime, petitioner has instituted a prosecution under DV Act with a prayer for interim monetary assistance, and in connection therewith a sum of Rs. 3,000/- per month has been awarded to petitioner, and a further sum of Rs. 2,000/- per month has also been awarded for the child born out of the wedlock of petitioner and op/husband.

The op/husband is a serviceman working as Information Officer.

As regards the grounds set out in the transfer application; long distance to be covered hardship, harassment, multiplicity of decisions and financial constraints are grossly focussed.

Upon taking such grounds, learned advocate for the petitioner has proposed for transfer of referred litigation.

Per contra, Mr. Soumik Ganguli, learned advocate appearing for the opposite party/husband submits that the instant transfer application is purely harrasive one, and it would be most disadvantages for the op/husband to participate in the

hearing process of pending matrimonial suit, in the event of the case being transferred to proposed place. Mr. Ganguli incidentally submits that previously the op/husband was posted as Information Officer at Midnapore, but presently he has been transferred, and posted at Bankura. According to Mr. Ganguli, in the fitness of the things, the case should be transferred to Bishnupur Court, and if for any reasons the same is not possible, the pending matrimonial suit should be transferred to a neutral place, having suitable connectivity to reach over there, and where dispensation of justice may be best sub-served.

It is also contended by Mr. Ganguli that there is fair chance of physical harassment in the event of the case being transferred to the Court of learned District Judge, Paschim Midnapore.

Having considered the rival submissions of the parties, it appears that both the parties are interested to protect their respective inconveniences and hardship, which is very common in a transfer application.

The matter was sent to Mediation Centre of this Court upon appointing trained learned advocate mediator for exploring the possibility of settlement, that may be reached between the parties. Such exercise ultimately turned to be futile one, as the mediation proved to be unsuccessful one.

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.

The advantages, disadvantages, comparative harassment of the parties to this case are of highest significance in this case. When learned advocate for the op/husband alternatively has proposed for selection of a neutral site, wherein justice is expected to be best sub-served with all fairness of the trial, the same has to be taken into account, vis-à-vis, the grounds set out in the transfer application.

Both the parties to this case, while fighting over the transfer application put much emphasis upon the long distance to be covered in the interest of participation at pending matrimonial suit.

Having considered the comparative advantages, disadvantages and harassment of the parties, the Court is of the view that Arambagh Court, within the district Hooghly would be the best option, being the neutral site, and situated medially with respect to the present stay of this fighting couple.

Arambagh Court appears to be an independent and neutral location having a road distance of little bit above 90 km (approx., as derived from Google) from either of the two destination,

presently occupied by the parties to this case, i.e. be it from Bankura, or from Midnapore too.

It is also, however, suitably connected for availability of multiple conveyances to reach over there.

In that view of the matter, Arambagh Court in all fitness of the things would be a 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.

It is, however, will not cause prejudice to any of the parties to this case.

With the discussion made hereinabove, the instant transfer application is disposed of directing learned District Judge, Bankura to transfer the Matrimonial Suit No.186 of 2020 to the Court of learned Additional District Judge, 1st Court, Arambagh within six (06) weeks from date of communication of this order.

Both the parties are accordingly directed to ensure their respective appearance before the transferee court on 31st 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.)