

24.02.2022
Item No.6
Ct. No.7
CHC
(disposed of)

**C.O.1459 of 2020
(Physical Hearing)**

**Sarama Basak
VS.
Rajib Kumar Basak**

Mr. Jyoti Prakash Chatterjee
...for the petitioner

Mr. Bratin Kr. Dey,
Ms. Anjana Banerjee,
Mr. Pradeep Pandey
...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure, seeking transfer of Matrimonial Suit No.1042 of 2020, from the court of learned District Judge, at Barasat, North 24 Parganas to the court of learned Additional District Judge, at Kalna, Purba Bardhaman.

Learned advocate, Mr. Jyoti Prakash Chatterjee submits that presently, petitioner has been staying in her father's house for some matrimonial differences with her husband. The opposite party is submitted to be working under West Bengal State Electricity Distribution Company Limited, now posted at New Barrackpore. In the meantime, the wife has instituted

a criminal case under D.V. Act, which is pending at Kalna Court.

Mr. Jyoti Prakash Chatterjee, learned advocate appearing for the petitioner submits that since the wife/petitioner has three year old daughter to look after, it would be very difficult on her part to participate in the hearing process of Matrimonial Suit pending at Barasat Court undertaking a considerable journey therefor, and also after incurring necessary expenses therefor.

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

Per contra, Ms. Anjana Banerjee, learned advocate appearing for the opposite party/husband submits that it would be equally disadvantageous for the opposite party/husband to attend the hearing process of Matrimonial Suit in the event of transferring the Matrimonial Suit at the proposed place. More so, it will put him to face more trouble, and his present service may be highly disturbed.

It is also contended that the husband has to look after his age old mother, having several ailments at this stage.

Taking such grounds, Ms. Banerjee submits that proposed grounds are not convincing, and rather the transfer application is purely harassing one.

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

The advantages, disadvantages, comparative harassment of the parties to this case 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, may be a matter of good consideration vis-à-vis, the grounds set out in the transfer application.

While proposing the neutral site, learned advocate for the petitioner incidentally submits that it would be better to transfer the pending Matrimonial Suit to Chinsurah Court upon consideration of the communication point of view, to which learned

advocate for the opposite party does not have any serious objection.

For the reasons discussed hereinabove and in view of the submission disclosed, it is expedient for the ends of justice that Chinsurah 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.

The instant transfer application is thus, disposed of directing learned District Judge, at Barasat, North 24 Parganas to transfer the Matrimonial Suit No.1042 of 2020, to the court of learned Additional District Judge, 2nd Court, Chinsurah, Hooghly, within four (04) weeks from date of communication of this order.

Both the parties are accordingly directed to ensure their respective appearance before the transferee court on 23rd 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.)