

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

28.02.2022
Item No.11
Court No. 01
Suman Nandy

C.O. 81 of 2021

**Papiya Chowdhury (Dutta)
Versus
Dipnarayan Chaudhri @ Chauduri**

Mr. Hillol Saha Podder
... for the petitioner.

Despite service, there is no representation on behalf of the opposite party.

Let the affidavit of service filed in Court today be kept with the record.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of O.C. no. 1 of 2002 which is pending before the Court of Civil Judge (Senior Division), Alipore Duar to the Civil Judge (Senior Division), Cooch Behar. The parties are at logger heads. Several litigations have been launched against each other, some in the courts of Cooch Behar district and some in the Jalpaiguri districts.

In fact, the petitioner filed the proceeding for maintenance under Section 125 of the Cr.P.C. before the Chief Judicial Magistrate at Cooch Behar which culminated into a final order. The execution proceedings for recovery of the maintenance amount are also pending thereat. The instant suit for damages had been filed against the wife for her indifferent behavior and the utterance of words which, according to the opposite party tarnishes his image in the society and put his reputation at stake. The counseling could not yield any fruitful result nor the reconciliation proceedings ended in restoring the peace and harmony in a matrimonial home. In fact, after having suffered the order of maintenance, a

suit for dissolution of marriage was also filed in the Alipore Duar Court which has been transferred to the Court of Cooch Behar. At one hand, the petitioner has not been paid the maintenance despite the order passed in a validly constituted proceeding. On the other hand, has to face and defend the suits launched against her by the husband/opposite party in the other districts. The petitioner has to commute a distance of 30 kms to attend on each occasion compelling to shell money which, in fact, has not been provided by the husband/opposite party.

We find that the petitioner would face lot of inconvenience in defending the suit initiated in different districts, when the proceeding which culminated into a final order was filed in the Courts at Cooch Behar district. It would not be troublesome to the husband/opposite party to travel a distance of 30 kms. to attend cases instituted by him when he has to defend the execution proceedings pending in the Courts at Cooch Behar.

The application is, thus, allowed.

O.C. 1 of 2020 pending before the Civil Judge (Senior Division), Alipore Duar is transferred to the Court of Civil Judge (Senior Division), Cooch Behar.

District Judge, Jalpaiguri is directed to take steps for transmission of records to the Court of Civil Judge (Senior Division), Cooch Behar.

The revisional application being C.O. 81 of 2021 is disposed of.

(Harish Tandon, J.)