

S/L 270
17.4.2023
Court No.652
(Susanta)

CO 5 of 2023

Mousumi Bagdi (Pal)
Vs.
Akshay Kumar Pal

Mr. Sanat Kumar Das
Mr. Sujan Chatterjee
Ms. Atreyee Halder,

...for the Petitioner.

Affidavit of service filed by the petitioner in court today be kept with the record.

The opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner seeking transfer of Matrimonial Suit No.274 of 2022 presently pending before the Court of learned Additional District Judge, Katwa, Purba Bardhaman to the Court of learned District Judge, Purba Bardhaman at Bardhaman.

The petitioner submits she is legally married wife of the opposite party.

The petitioner alleged that she was subjected to mental torture on the ground of non-payment of additional dowry and as such, she had to start a criminal proceeding against the opposite party which is now pending in the Court of Judicial Magistrate at Purba Bardhaman.

She further submits that she is an unemployed lady and she has initiated another proceeding under Section 125 of the Code of Criminal Procedure seeking maintenance which is also pending in the Court of learned Judicial Magistrate Purba Bardhaman.

All of a sudden the husband/opposite party has instituted aforesaid suit for restitution of conjugal rights which is now pending in the Court of Katwa, Purba Bardhaman. The petitioner submits that she was driven out from her matrimonial home and finding no other alternative she has taken shelter at her father's house at Aousgram, Purba Bardhaman.

The petitioner further submits that the Court at Katwa situates at a distance of 70 kms. from the petitioner's present place of residence and there is no direct communication between the two places and as such, she is facing lot of inconveniences in attending the said proceeding at Katwa. Accordingly, she has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and the distance involved between the two places and that two other proceedings initiated by the petitioner/wife are pending before the Court at Purba Bardhaman where the opposite party would be required to attend and that the inconveniences faced by a female in pursuing her matrimonial suit in a different station through public transportation in the socio-economic situation prevailing in the country is much more than the inconveniences that might be faced by the husband/opposite party, the prayer made by the petitioner is allowed.

Accordingly Learned District Judge Purba Bardhaman is thereby directed to withdraw the Matrimonial Suit no 274 of 2022 pending before the learned District Judge Katwa, Purba Bardhaman and to transmit the same to his own Court i.e. District Judge's Court at Purba

Bardhaman or to any other competent Court situated at Purba Bardhaman, having jurisdiction to try the said suit within a period of three weeks from the date of communication of the order.

The transferee court shall proceed further after serving fresh notice upon both the parties intimating next date of hearing and will proceed from the stage where it reached till today.

Since the opposite party was not asked to file affidavit-in-opposition, the allegations leveled by the petitioner in the application against opposite party deemed to have not admitted by the opposite party.

With these observations, C.O. 5 of 2023 is disposed of.

The department is directed to send a copy of this order to the learned District Judge, Purba Bardhaman immediately.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Ajoy Kumar Mukherjee, J.)