

S/L 233
28.02.2023
Court No.652
SD

CO 88 of 2023

Smt. Piyali Das nee Biswas
Vs.
Sri Priyanku Biswas

Mr. Bratin Kr. Das
Ms. Anjana Banerjee

...for the Petitioner.

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

It appears from the postal endorsement that the opposite party has refused to receive copy of the revisional application. The opposite party is also not represented in court today.

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.3336 of 2022 from the Court of learned Additional District Judge, 5th Court, South 24 Parganas, Alipore to the Court of learned Additional District Judge, Barrackpore.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on 13.3.2022. The petitioner states that after being tortured grievously by the opposite party as well as her in laws the petitioner lodged a complaint under Section 498A/406 of the Indian Penal Code, which is pending before the learned ACJM, Barrackpore.

The petitioner is an unemployed lady and for which she has also initiated proceeding under Section 125 of the

Code of Criminal Procedure seeking maintenance which is also pending before the learned ACJM, Barrackpore.

All of a sudden the opposite party has instituted aforesaid suit praying for annulment of marriage under Section 12(1)(a) of the Hindu Marriage Act, 1955 which is pending in the court of learned Additional District Judge, 5th Court, Alipore.

The petitioner submits that the aforesaid suit for annulment of marriage is a counter-blast of the complaint lodged by the petitioner. She further submits that the said suit has been filed deliberately in order to cause inconvenience to the petitioner and with an evil motive to obtain ex parte decree. The court at Alipore situates at a distance of about 45 kms. from the present residence of the petitioner and it is difficult and inconvenient for her to attend the hearing of said suit at Alipore Court.

The petitioner has no source of income to incur the travelling and other expenses. Furthermore, she has none in her family to accompany, in her way to Alipore Court. Accordingly, she has sought for aforesaid transfer.

Having considered the aforesaid facts and circumstances of the case and that other two proceedings are pending in the Barrackpore Court where the opposite party would be required to attend and that the petitioner is an unemployed lady and that this is husband's suit seeking annulment of marriage and as such, wife/petitioner's convenience must be looked at and that the inconvenience caused to a woman in travelling to another place for

pursuing the matrimonial suit through public transportation in the socio-economic situation prevailing in the country is much more than the inconvenience that might be caused to opposite party, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, South 24 Parganas at Alipore is hereby directed to withdraw the Matrimonial Suit No.3336 of 2022 from the Court of learned Additional District Judge, 5th Court at Alipore and to transmit the case record to the Court of learned District Judge, North 24 Parganas at Barasat within a period of three weeks from the date of communication of the order, who in turn will transfer the same to the court of learned Additional District Judge, Barrackpore having jurisdiction to try the suit within a period of three weeks thereafter.

The transferee court shall give fresh notice intimating the next date of hearing upon both the parties before taking up further proceeding of the suit and the transferee court shall proceed with the suit at the stage where it reached till date.

Department is directed to send a copy of this order to the learned District Judge, South 24 Parganas at Alipore as well as learned District Judge, North 24 Parganas at Barasat immediately.

With these observations, C.O. 88 of 2023 is disposed of.

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.)