

S/L 275
28.3.2023
Court No.652
SD

CO 168 of 2023

Smt. Baisakhi Biswas
Vs.
Sri Chandan Biswas

Mr. Sumanta Das

...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.184 of 2021 from the Court of learned District Judge, Murshidabad at Berhampur to the Court of learned District Judge, Nadia at Krishnagar.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on March 10, 2016. The petitioner alleged that she was driven out from matrimonial home on 15.02.2017 and since then she is residing at her father's house and the opposite party has never taken any information about the petitioner.

All of a sudden, the opposite party has filed aforesaid suit seeking dissolution of marriage which is now pending in the court of learned District Judge, Murshidabad. The petitioner further submits that she has also filed a suit for dissolution of marriage in the year 2018 being Matrimonial Suit No.358 of 2018 which is pending in the court of learned

Additional District Judge, 4th Court, Nadia at Krishnagar. The petitioner has sought for analogous trial of both the aforesaid suits filed by the parties.

She further submits that the court at Berhampur situates at a distance of 190 kms. in both ways by road from her present residence and she is facing lot of inconveniences in attending the said proceeding at Berhampur. Accordingly, she has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and that the petitioner herein had earlier filed a suit seeking selfsame relief being Matrimonial Suit No.358 of 2018 which is pending before the Krishnagar Court and as such, unless both the proceedings are heard analogously by the same Judge, there is serious chance of conflicting judicial decision, I find that both the suits are required to be heard by same Judge and the petitioner's suit being the earlier one, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Murshidabad at Berhampur is hereby directed to withdraw the Matrimonial Suit No.184 of 2021 from the Court of learned District Judge, Murshidabad and to transmit the case record to the Court of learned District Judge, Nadia at Krishnagar within a period of three weeks from the date of communication of the order, who in turn will transmit the same to the court of learned Additional District Judge, 4th Court, Nadia at Krishnagar within a period of three weeks thereafter for analogous trial of present Matrimonial Suit No.184 of 2021 along with the petitioner's Matrimonial No.358 of 2018.

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

Department is directed to send a copy of this order to the learned District Judge, Murshidabad at Berhampur as well as learned District Judge, Nadia at Krishnagar immediately.

With these observations, C.O. 168 of 2023 is disposed of.

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.

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.)