

S/L 279
28.3.2023
Court No.652
SD

CO 199 of 2023

Smt. Baishali Poddar nee Bhowmik
Vs.
Sri Anal Poddar

Mr. Dibakar Bhattacharjee
Mr. Sanjay Pandit

...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.476 of 2022 from the Court of learned Additional District Judge, Chandannagore, Hooghly to the Court of learned Additional District Judge, Baruipur, South 24 Parganas.

The petitioner contended that the petitioner was married with the opposite party on 05.02.2015. The petitioner alleged that she was subjected to physical and mental torture and as such torture increased day-by-day and for which she was compelled to leave her matrimonial home and started to reside at her paternal home.

The petitioner has initiated a proceeding under Section 12 of Protection of Women from Domestic Violence Act which is pending in the court of learned ACJM, Baruipur where the opposite party would be required to attend. The petitioner further submits that she has also filed a suit under Section 22 of the Special Marriage Act against the opposite

party, inter alia, praying for restitution of conjugal rights and the said suit is also pending in the court of learned Additional District Judge, Baruipur, South 24 Parganas.

All of a sudden, the opposite party/husband has filed aforesaid suit seeking dissolution of marriage under Section 27 of the Special Marriage Act and the said suit is pending before the learned Additional District Judge, Chandannagore, Hooghly.

The petitioner submits that the court at Chandannagore situates at a distance of 68 kms. from the petitioner's present place of residence and the petitioner is a helpless lady having no independent source of income and is facing lot of difficulties in attending said proceeding at Chandannagore. 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 restitution of conjugal rights which is pending in the court at Baruipur and if the present suit seeking dissolution of marriage pending at Chandannagore Court be not heard with the said proceeding for restitution of conjugal rights, there is serious chance of conflicting judicial decision and that the present suit is husband's suit seeking dissolution of marriage and as such, wife's convenience must be looked at, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Hooghly at Chinsurah is hereby directed to withdraw the Matrimonial Suit No.476 of 2022 from the Court of learned Additional District Judge, Chandannagore, Hooghly and to transmit the

case record to the Court of learned District Judge, South 24 Parganas at Alipore 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, Baruipur, South 24 Parganas where the petitioner's suit for restitution of conjugal rights being Matrimonial Suit No.387 of 2021 is pending within a period of three weeks thereafter.

The transferee court shall conduct analogous hearing of both the suits after giving fresh notice upon both the parties and the transferee court shall make every endeavour for expeditious disposal of both the suits.

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

With these observations, C.O. 199 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.)