

S/L 251
24.4.2023
Court No.652
SD

CO 263 of 2023

Mousumi Mondal (Saha)
Vs.
Subhankar Saha

Mr. Siddhartha Sankar Mondal
Ms. Arunima Das Sharma

...for the Petitioner.

Mr. Tapas Kr. Dey

...for the Opposite Party.

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

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Matrimonial Suit No.708 of 2022 from the Court of learned Additional District Judge, 2nd Court, Hooghly at Serampore to the Court of learned Additional District Judge, Birbhum at Rampurhat.

The petitioner contended that the petitioner was married with the opposite party in the year 2014 according to Hindu rites and customs and they are blessed with a female child who is now residing with the petitioner. The petitioner alleged that she was subjected to both physical and mental abuse and consequently, sometime in the year 2021 she was ousted from her matrimonial house and thereafter, the petitioner and her minor daughter started living at Rampurhat at the mercy of her old, ailing parents.

She further submits that the opposite party/husband is presently working as a Deputy Director of Employment and the petitioner is an unemployed lady and for which she has initiated a proceeding under Section 125 of the Code of

Criminal Procedure seeking maintenance and she has also filed another case being CR 1178 of 2021 and both the cases are pending at Rampurhat Court.

All of a sudden, the opposite party has initiated aforesaid suit seeking restitution of conjugal rights which is now pending before the learned Additional District Judge, 2nd Court, Hooghly at Serampore. The petitioner submits that she is facing lot of inconveniences in attending the said proceeding at Serampore Court as Serampore court is far away from her present place of residence.

The petitioner further submits that an Act VIII case initiated by the husband has been transferred from Serampore Court to Suri Court, where the opposite party would be required to attend. She further submits that she reasonably apprehends dire consequences out of vengeance of her husband and his relatives, if she is compelled to go and attend before the learned Additional District Judge, 2nd Court, Hooghly at Serampore. Accordingly, she has sought for aforesaid transfer.

Learned counsel appearing on behalf of the opposite party raised objection and contended that it is equally inconvenient for the husband whos present office is in Calcutta to attend the said proceeding at Rampurhat Court, if the prayer for transfer is allowed. Accordingly, he has prayed for rejection of the aforesaid prayer for transfer.

Having considered the facts and circumstances of the case and the distance involved between the two places and that the other proceedings initiated by the petitioner under

and also husband's case under the Guardian and Wards Act are pending in the court at district Birbhum where the opposite party would be required to attend and that the inconveniences caused to a woman in travelling to another place for pursuing her matrimonial suit, through public transportation in the socio-economic situation prevailing in the country, is much more than the inconveniences that might be caused to the husband/opposite party, the prayer for transfer is allowed.

Accordingly, learned District Judge, Hooghly at Chinsurah is hereby directed to withdraw the Matrimonial Suit No.708 of 2022 from the Court of learned Additional District Judge, 2nd Court, Hooghly at Serampore and to transmit the case record to the Court of learned District Judge, Birbhum at Suri 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, Rampurhat having jurisdiction to try the same 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, Birbhum at Suri as well as learned District Judge, Hooghly at Chinsurah immediately.

With these observations, C.O. 263 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.)