

11.4.2023
277
Ct. no. 652
sb

CO 327 of 2023

**Smt. Gita Biswas
Vs.
Somenath Biswas**

Mr. Sujoy Chakraborty
Ms. Shashwati Bhattacharya ...for the petitioner

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Matrimonial suit no. 2308 of 2022 presently pending before the court of learned Fast Track court, 5th court, Barasat to the court of learned Additional District Judge, Barrackpore having jurisdiction to try the suit.

The petitioner contended that the marriage between the parties was solemnised on 16th January, 2013 according to Hindu Rites and Customs. The parties are blessed with a female child who is now residing with the petitioner and currently studying in a school at Barrackpore. The petitioner alleged that she was driven out from her matrimonial home and for which she has initiated a criminal complain at Duttapukur Police station, North 24 parganas. She further submits that being a hapless aggrieved mother, who was driven out forcefully, has filed a case under Section 12 of the Protection of Women from Domestic Violence Act, which is pending before the court of learned Chief Judicial

Magistrate, Barrackpore. Now in order to save his skin, the opposite party has instituted aforesaid suit for restitution of conjugal rights which is now pending in the court of learned Additional District Judge, First track, 5th Court, Barrackpore. The petitioner further submits that she is facing lot of difficulties in attending the said proceeding at Barasat court, since she is unemployed having no source of income. Furthermore, she is custodian of a minor child and that the other proceeding under the provision of Protection of Women from Domestic Violence Act is pending before the Barrackpore court where the opposite party would be required to attend. She further submits that the opposite party is fully aware about the difficulties faced by the petitioner, but in order to deprive the petitioner to participate and contest the said suit, he has intentionally initiated aforesaid proceeding in the Barrackpore court. Accordingly, the petitioner has sought for aforesaid transfer.

In view of the aforesaid facts and circumstances of the case and that the petitioner is an unemployed lady and that she is custodian of a minor child and that the other proceeding under the provision of Protection of Women from Domestic Violence Act is pending before the Barrackpore court where the opposite party would be required to attend, the prayer made by the petitioner is allowed.

Learned District Judge, North 24 parganas, Barasat is hereby directed to withdraw the Matrimonial suit no. 2308 of 2022 presently pending before the court of learned Fast Track court, 5th court, Barasat and to transmit the same to the court of learned Additional District Judge, Barrackpore 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 serve fresh notice upon both the parties intimating the next date of hearing before proceeding further with the aforesaid suit and will proceed from the stage where it reached till date.

The department is directed to send a copy of the order to the learned District Judge, North 24 parganas immediately.

Accordingly, C.O. 327 of 2023 is disposed of.

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

(Ajoy Kumar Mukherjee, J.)