

6.2.2023
176,177
Ct. no. 652
sb

C.O. 294 of 2022

Sanat Paul
Vs.
Dipika Paul

With
C.O. 1999 of 2021

Dipika Paul
Vs.
Sanat Paul

Ms. Sangeeta Roy
Mr. Chandra Prakash
Mr. Dipankar Ghosh
Ms. Monalisa Maity ...for the petitioner
In C.O. 294 of 2022

Mr. Sounak Mukhopadhyay
Mr. Anupam Ghosh
Ms. Rimpa Deb
Mr. Subir Banerjee ...for the opposite party
In C.O. 294 of 2022

Mr. Sounak Mukhopadhyay
Mr. Anupam Ghosh
Ms. Rimpa Deb
Mr. Subir Banerjee ...for the petitioner
In C.O. 1999 of 2021

Ms. Sangeeta Roy
Mr. Chandra Prakash
Mr. Dipankar Ghosh
Ms. Monalisa Maity ...for the Opposite party
In C.O. 1999 of 2021

In C.O. 1999 of 2021, the petitioner/wife seeks transfer of the Matrimonial suit being no. 132 of 2021 filed by opposite party/husband and pending before the court of learned District Judge, Dakshin Dinajpur, Balurghat to the court of learned District Judge, Malda and in C.O. 294 of 2022, the husband/petitioner has

sought for transfer the matrimonial suit being no. 183 of 2021 pending before the learned District Judge, Malda, filed by the opposite party/wife under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights, to the court of learned District Judge, Dakshin Dinajpur, Balurghat. Since the issue involved in both the revisional applications relates to same marital tie and between same parties, both the aforesaid transfer applications are taken up together and disposed of by a common order.

The petitioner/wife contended that she earlier filed aforesaid suit being no. 183 of 2021 seeking restitution of conjugal rights in the court of learned District Judge, Malda which is still pending. She further submits that she was married with the opposite party and one female child was born due to said wedlock on 17.1.2016 who is staying with the petitioner/wife. She further states that she is unemployed lady and she also initiated a proceeding under Section 125 of the Code of Criminal Procedure which has been disposed of, but the execution case is pending in Malda court where the opposite party would be required to attend.

Petitioner/wife's further contention is as a counter blast, the husband/opposite party has instituted aforesaid suit being Mat no. 132 of 2021 before the learned District Judge, Dakshin Dinajpur, Balurghat seeking dissolution of marriage. The petitioner/wife

further submits that her suit is earlier one, so the aforesaid suit for dissolution of marriage being Mat suit no. 132 of 2021 filed by husband/opposite party may be transferred from the court of learned District Judge, Dakshin Dinajpur, Balurghat to the court of learned District Judge, Malda. She further submits that the distance involved in between the court of Malda and the court at Dakshin Dinajpur is about 115 kilometres and the petitioner/wife is facing lot of difficulties in attending the said proceeding.

Learned counsel for the opposite party/husband raised objection and contended that if the transfer is effected, he will face lot of difficulties.

Having considered the facts and circumstances of the case and that earlier suit for restitution of conjugal rights filed by the petitioner/wife is required to be heard and disposed of along with the later suit for dissolution of marriage filed by the husband/opposite party since some common question of fact and law are involved in both the cases and the decisions in the cases are independent and that it is desirable that they should be tried together by the same judge, so as to avoid multiplicity of judicial decisions and considering the distance involved between the two places which is about 115 kilometres and that the petitioner/wife is the custodian of a minor child and that in such cases where the opposite party/husband has filed a suit for

dissolution of marriage, the convenience of the petitioner is of paramount importance and that inconvenience caused to a female in travelling to another place for pursuing said matrimonial suit through public transportation, in the socio economic situation prevailing in country, is much more than the inconveniences that might be caused to the opposite party/husband, the prayer made by the petitioner/wife in C.O. 1999 of 2021 is allowed and prayer made by the husband/petitioner in C.O. 294 of 2022 is rejected.

Learned District Judge, Dakshin Dinajpur, Balurghat is hereby directed to withdraw the Matrimonial suit being no. 132 of 2021 pending before the court of learned District Judge, Dakshin Dinajpur, Balurghat and to transmit the same to the court of learned District Judge, Malda within a period of three weeks from the date of communication of the order. Learned District Judge, Malda will hear the matrimonial suit filed by husband being no. 132 of 2021 along with Mat suit no. 183 of 2021 filed by wife, which are pending before the court of learned District Judge, Malda analogously.

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 learned transferee court will continue the proceeding at the stage where it reached till date.

The department is directed to send a copy of the order to the learned District Judge, Dakshin Dinajpur, Balurghat and learned District Judge, Malda immediately.

Accordingly, C.O. 294 of 2022 is dismissed and C.O. 1999 of 2021 is allowed.

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

(Ajoy Kumar Mukherjee, J.)