

S/L 273
17.4.2023
Court No.652
(Susanta)

CO 372 of 2023

Suvasree Datta
Vs.
Lt. Col. Pradyut Ghosal

Mr. Debjit Mukherjee
Ms. Dipanwita Ganguly

...for the Petitioner.

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

In spite of service 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.117 of 2022 pending in the Court of learned Additional District Judge, 2nd Court at Serampore to the Court of learned District Judge, Alipore.

The petitioner contended that she was married with the opposite party. The petitioner alleged that due to torture inflicted by the opposite party/husband the parties are residing separately since 2018. She further submits that she has no source of income and as such, she has initiated a proceeding under Section 125 of the Code of Criminal Procedure which is now pending before the Court of Chief Judicial Magistrate, Alipore.

All of a sudden, the husband/opposite party has initiated the aforesaid suit for dissolution of marriage which is now pending in the Court of learned Additional District Judge, 2nd Court at Serampore.

The petitioner submits that the Court at Serampore situates far away from her present place of residence and it takes four hours time to reach Serampore. Furthermore, her maintenance proceeding under Section 125 of the Code of Criminal Procedure is pending before the Alipore Court.

She further submits that since she is an unemployed lady having no financial support she is facing lot of inconvenience in attending the said proceeding at Serampore Court. Accordingly she has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and the distance involved between the two places and that the petitioner has initiated a proceeding under Section 125 of the Code of Criminal Procedure which is now pending before the Alipore Court where the opposite party would be required to attend and that this is the husband's suit seeking dissolution of marriage and as such, the petitioner's convenience must get preference and that the inconveniences faced by a female in travelling to another station through public transpiration for pursuing her matrimonial suit in the socio-economic situation prevailing in the country is much more than the inconveniences that might be faced by the husband/opposite party and that our constitutional scheme provides for guaranteeing equal access to justice and power of the State to make special provision for women and children, the prayer made by the petitioner is allowed.

Learned District Judge Hooghly at Chinsurah is directed to withdraw the Matrimonial Suit no. 117 of 2022

pending before the Learned District Judge Serampore and to transmit the same to the Court of District Judge South 24-Parganas at Alipore within a period of three weeks from the date of communication of the order.

The learned District Judge, South 24-Parganas at Alipore either himself hear the said case or he will be at liberty to transfer the said suit in any competent Court at Alipore having jurisdiction to try the same.

The transferee Court shall proceed further after serving a fresh notice upon both the parties intimating the next date of hearing and will proceed from the stage where it is reached till date.

With these observations, C.O. 372 of 2023 is disposed of.

The department is directed to send a copy of this order to the learned District Judge, South 24-Parganas at Alipore and Learned District Judge Hooghly at Chinsurah immediately.

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.)