

S/L 273
23.3.2023
Court No.652
SD

CO 399 of 2023

Priyanka Ghosh @ Priyanka Roy Choudhury
Vs.
Subhendu Roy Choudhury @ Ray Chaudhuri

Mr. Shounak Mukhopadhyay
Ms. Rimpa Das

...for the Petitioner.

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

In spite of service, 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.137 of 2022 from the Court of learned Additional District Judge, Gangarampore at Buniadpur to the Court of learned District Judge, Darjeeling.

The petitioner contended that the petitioner was married with the opposite party in the year 2018. The petitioner further contended that earlier present opposite party filed a suit for dissolution of marriage in the same Court at Gangarampore being Matrimonial Suit No.115 of 2019 and this petitioner filed an application before this Court vide CO 1301 of 2020 and this Court was pleased to allow the prayer of the petitioner and transferred the said suit from the court of Gangarampore to the Court of Darjeeling. However, the said suit subsequently dismissed for default. After that the petitioner has filed the present suit seeking selfsame prayer for dissolution of marriage.

The petitioner alleged that the opposite party inflicted physical and mental torture upon the petitioner and the communication between the petitioner and the opposite party stopped since February 9, 2019.

All of a sudden, the husband/opposite party again filed the aforesaid suit for dissolution of marriage with some fake allegations of adultery, venereal disease and cruelty. She further submits that she has initiated a proceeding under Section 125 of the Code of Criminal Procedure seeking maintenance which is pending before the learned ACJM, Siliguri. The distance in between the petitioner's present place of residence and the court at Buniadpur is about 250 kms. and it is not possible for the petitioner to travel there alone and she is not in a position to bear the travelling expenses and other incidental expenses. On the other hand, the opposite party resides in the United States and he is financially solvent.

Having considered the facts and circumstances of the case and that the distance involved between the two places and that on earlier occasion on the similar context this court was satisfied to transfer the similar matrimonial suit from Buniadpur to Darjeeling and that the opposite party is residing abroad and as such, in order to attend the said proceeding he will have to come all the way from abroad and that this is the husband's suit for dissolution of marriage and the settled principle is that the wife's convenience in such cases must be looked at and that the inconvenience caused to a woman in travelling to another place for pursuing

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 and considering all these the prayer for transfer is allowed.

Accordingly, learned District Judge, Dakshin Dinajpur at Balurghat is hereby directed to withdraw the Matrimonial Suit No.137 of 2022 from the Court of learned Additional District Judge, Gangarampur at Buniadpur and to transmit the case record to the Court of learned District Judge, Darjeeling within a period of three weeks from the date of communication of the order.

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, Dakshin Dinajpur at Balurghat as well as learned District Judge, Darjeeling immediately.

With these observations, C.O. 399 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.)