

S/L 276
17.4.2023
Court No.652
(Susanta)

CO 401 of 2023
Tithi Mondal
Vs.
Dilip Mondal

Mr. Subha Pathak,

...for the Petitioner.

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

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.363 of 2022 pending before the Court of learned District Judge, Nadia at Krishnanagar to the Court of learned District Judge, Hooghly at Chinsurah.

The petitioner contended that she was married with the opposite party in the year 2004. The parties are blessed with a female child but unfortunately the said female child was diagnosed with Thalassemia. The petitioner was blamed for such fate by the opposite party and for causing intentional harassment, the petitioner could not stay at her matrimonial house and without having any option she had to take shelter at her paternal house at Balagarh, Hooghly which is within the jurisdiction of learned District Judge, Hooghly at Chinsurah. The said child who is a Thalassemia patient has been staying with her mother i.e. with the petitioner herein.

The petitioner has initiated one proceeding under the provision of Protection of Women from Domestic Violence

Act seeking their maintenance, Execution Case of which is pending before the learned Judicial Magistrate, Chinsurah, wherein petitioner was directed to pay a sum of Rs.6,000/- per month. The petitioner alleged that in spite of the order, the opposite party has deliberately and expressly neglected to provide maintenance.

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

The petitioner submits that she is facing rigorous hardship in treating her daughter as her daughter has been suffering from multiple medical abnormalities/diseases and she is in immense hardship in maintaining herself as well as her daughter's medical expenses and as such, it is not possible for her to attend the said proceeding at Krishnanagar Court from her present place of residence. The petitioner further submits that the Court at Krishnanagar situates at a distance of 60 kms. and the petitioner has been facing problems to make her journey both physically and financially. She further submits that her marriage was solemnized within the jurisdiction of District Judge Hooghly at Chinsuarh and accordingly she has prayed for aforesaid transfer.

Having considered the facts and circumstances of the case and the distance involved between the two places and that the petitioner is an unemployed lady who is bringing up a minor child born due to such wedlock, who is suffering from different ailments and that the petitioner's

Execution Case under the Protection of Women from Domestic Violence Act is pending before the Chinsurah Court where the opposite party would be required to attend and that this is husband's suit for dissolution of marriage and as such wife's conveniences must be looked at and that the inconveniences faced by a female in travelling to another station 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 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 Nadia at Krishnanagar is directed to withdraw Matrimonial Suit no. 263 of 2022 pending before his Court and to transmit the same to the Court of learned District Judge Hooghly at Chinsurah within a period of three weeks from the date of communication of the order.

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

With these observations, C.O. 401 of 2023 is disposed of.

The department is directed to send a copy of this order to the learned District Judge, Hooghly at Chinsurah

and Learned District Judge Nadia at Krishnanagar 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.)