

285 21.3.2023
Sc Ct. no.652

C.O. 472 OF 2023

Piali Dey (Kundu)

Vs.

Bikash Dey

Mr. Manabendra Nath Bandyopadhyay
Mr. Arijit Bakshi
Ms. Snigdha Ghosh.

... For the Petitioner

Affidavit-of-service, filed in Court, is taken on record.

Despite service, the opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Matrimonial Suit No.382 of 2022 which is pending before the court of learned Additional District Judge, Bangaon, North 24-Parganas to the court of Learned Additional District Judge, Barrackpore, North 24-Parganas.

The petitioner contended that the petitioner was married with the opposite party on 19th February, 2009 and they are blessed with a male child who was born on 26th December, 2014. The petitioner alleged that soon after the marriage the husband started inflicting mental torture upon the petitioner and thereafter the husband started assaulting her physically on regular basis demanding more money from her parental home and also

threatened her repeatedly with dire consequences. She further alleged that the husband even refused to provide any maintenance to the petitioner or to her minor child and for which an FIR was lodged at Dum Dum Police Station on 23rd March, 2022. The petitioner further stated that finding no other alternative, she initiated proceeding under Section 125 of the Code of Criminal Procedure seeking maintenance which is now pending before the Court of learned Judicial Magistrate, Barrackpore.

In the meantime, the opposite party husband has initiated aforesaid suit seeking restitution of conjugal rights to create sympathy upon learned court below and forced the petitioner to travel a distance of about 67 Kilometers from her present place of residence. The petitioner further stated that since she was driven away from her matrimonial home, she is staying at her mother's house at Dum Dum along with her child but her mother is an aged lady and suffering from various ailments. The petitioner is also suffering from acute rheumatic fever and arthritis and facing great hardship to travel through public vehicles. The petitioner further states that the minor child is also suffering from various gastro related issues and it is not possible for her aged mother to accompany her on her way to Bangaon Court. The petitioner further submitted that on the contrary, the husband is an able bodied person and has got no liability

and, as such, if the aforesaid prayer for transfer is allowed, the opposite party will have no cause to prejudice. Accordingly, she has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and the distance involved in between the two places and that the petitioner is the custodian of a minor child and that the petitioner is an unemployed lady and two other proceedings are pending in the Court of Barrackpore where the opposite party/husband would be required to attend and that the inconveniences faced by a female in travelling to another Court for pursuing her matrimonial suit with the minor child, in the socio-economic condition prevailing in the country, is much more than the inconvenience that might be faced by the opposite party, the prayer made by the petitioner is allowed.

Learned District Judge North 24-Parganas at Barasat is hereby directed to withdraw the Matrimonial Suit No.382 of 2022 presently pending before the Court of learned Additional District Judge, Bangaon, North 24-Parganas and transmit the same to the Court of learned Additional District Judge, Barrackport having jurisdiction to try the suit within a period of three weeks from the date of communication with the order.

The transferee court shall serve a fresh notice to both the parties intimating the next date of hearing before

proceeding further with the suit and the transferee court shall hear the matter at the stage it reached till date.

Office

The department is directed to send a copy of this order to the learned District Judge, North 24-Parganas, Barasat immediately.

The revisional application, **C.O. 472 of 2023** is, accordingly, disposed of.

(Ajoy Kumar Mukherjee, J.)