

S/L 279
17.4.2023
Court No.652
(Susanta)

CO 517 of 2023
With
I.A. No. CAN 1 of 2023

Smt. Arunima Mondal
Vs.
Sri Saswata Roy

Mr. Biswajit Sau
Mr. Sohom Sau,

...for the Petitioner.

Mr. Suman Chakraborty,

.... For the Opposite Party.

Ref: I.A. No. CAN 1 of 2023

Can 1 of 2023 is not pressed and accordingly dismissed.

Ref: C.O 517 of 2023

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

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.2641 of 2022 pending before the Court of learned Additional District Judge, Barrackpore to the Court of learned District Judge, South 24-Parganas at Alipore.

The petitioner contended that she was married with the opposite party on 1st December, 2019.

The petitioner is a primary school teacher and presently posted at Maheshpur Junior Basic School and is working since 2017.

The petitioner alleged that she had faced ill behaviour and rash words from her in laws at her matrimonial home.

She further alleged that the opposite party and her in laws had made her life miserable during her stay at her matrimonial home.

The parties are blessed with a female child, who was born on 19.01.2022 and is presently residing with the petitioner/mother.

The opposite party/husband filed the aforesaid suit for restitution of conjugal rights which is now pending in the court of Additional District Judge Barrackpore.

The petitioner submits that the Court at Barrackpore situates at a distance of 35 kms. in one way from her present place of residence. Moreover, she is custodian of new born baby who is aged about one year and it is very much difficult for her to travel alone to the Court at Barrackpore in order to attend the said matrimonial proceeding. She further states that her parents are senior citizen and they are not in a position to accompany her on her way to Barrackpore Court. She alleged that the opposite party has instituted the said suit at Barrackpore with an intention to get ex parte decree against the petitioner. Accordingly she has sought for aforesaid transfer.

The learned Counsel appearing on behalf of the opposite party raised vehement objection and contended that the petitioner is a school teacher having sufficient income and as such, she is very much capable of attending the said proceeding at Barrackpore court from her residence.

Having considered the facts and circumstances of the case and the distance involved between two places and that the opposite party is admittedly residing at present in Tamil

Nadu and in order to attend the said proceeding, whenever it would be required, he will have to come all the way from Tamil Nadu State and on the contrary the petitioner is custodian of a child aged about one year and that if the proposed transfer be not allowed, it may lead to denial of access to justice to the petitioner on account of her inability to participate in the proceeding instituted at a different place and that our Constitutional scheme provides for guaranteeing for power of the State to make special Provisions for Women and Children and that Section 19 of the Act of 1955 permits proceeding to be heard at a place where marriage is solemnized as well the place when petitioner/respondent resides, 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. 2641 of 2022 pending before learned Additional District Judge at Barrackpore and to transmit the same to the Court of learned 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, Alipore either himself will hear the matter taking in his own file or he will transfer the same to any other 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 today.

With these observations, C.O. 517 of 2023 is disposed of.

The department is directed to send a copy of this order to the learned District Judge, North 24-Parganas at Barasat and learned District Judge South 24- Parganas at Alipore 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.)