

S/L 302
15.5.2023
Court No.652
SD

CO 584 of 2023

Smt. Sutanuka Kundu
Vs.
Sri Chayan Mukherjee

Mr. Subrata Santra

...for the Petitioner.

Mr. Pinaki Ranjan Mitra

...for the Opposite Party.

Affidavit of service filed by the petitioner and affidavit-in-opposition filed by the opposite party in court today be kept with the record.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Matrimonial Suit No.280 of 2020 from the Court of learned District Judge, Purba Medinipur at Tamluk to the Court of learned District Judge, Howrah.

The petitioner contended that the petitioner was married with the opposite party under the provision of Special Marriage Act on 03.01.2016. The parties are blessed with a male child who was born on September 20, 2017 and the said child is presently school going and staying with the mother/petitioner.

Petitioner further submits that she has initiated a proceeding under Section 12 of the Protection of Women from Domestic Violence Act which is now pending before the learned Judicial Magistrate, 1st Court, Howrah. The petitioner further submits that the court at Tamluk situates at a distance of 100 kms. from her father's place and the petitioner being custodian of a school going child is not in a

position to take a tedious journey. She further submits that the opposite party is presently posted at Birbhum and it will be convenient for the opposite party to attend Howrah court than to attend the court at Tamluk. Accordingly, she has sought for aforesaid transfer.

Learned counsel appearing on behalf of the opposite party submits that the instant suit has progressed to a considerable extent and the evidence of husband/opposite party as PW1 is in progress. Accordingly, he submits that on all earlier dates, the petitioner/wife has attended the court at Tamluk and did not face any difficulty and if at this stage, the said suit is transferred that will cause unnecessary delay in disposal which will be prejudicial for the husband/opposite party.

He further submits that the petitioner is a working lady and she is habituated with journey by public vehicles and as such, it is/was never difficult for her to attend the said proceeding at Tamluk.

In reply, learned counsel appearing on behalf of the petitioner submits that she was accompanied by her father on earlier dates and as such, it was possible for her to attend Tamluk court but recently her father died on 15.01.2023 and her mother is aged about 67 years and is suffering from different ailments. She has none to accompany her at present on her way to Tamluk court and accordingly, she has prayed for aforesaid transfer.

Having considered the facts and circumstances of the case and that the petitioner is custodian of a school going

child and that this is husband's suit seeking dissolution of marriage and for which convenience of wife/petitioner must be looked at and that the inconveniences caused to a woman in travelling to another place 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 caused to the husband/opposite party and also considering the submission that at present petitioner has none to accompany her, after her father's death on her way to Tamluk Court, the prayer for transfer is allowed.

In this context reliance has been placed upon principles laid down by Apex Court in ***Neetu Yadav vs. Sachin Yadav (AIR 2020 SC 4548) and Ruchi Rawat vs. Principal Judge, Family Court, Etwa & Anr. (Civil Appeal No.5218 of 2022 dated 05.8.2022)***.

Accordingly, learned District Judge, Purba Medinipur at Tamluk is hereby directed to withdraw the Matrimonial Suit No.280 of 2020 from the Court of learned District Judge, Purba Medinipur and to transmit the case record to the Court of learned District Judge, Howrah within a period of four 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, Howrah as well as learned District Judge, Purba Medinipur at Tamluk immediately.

With these observations, C.O. 584 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.)