

S/L 292
16.5.2023
Court No.652
SD

CO 694 of 2023

Smt. Anisa @ Anisha Sarkar (nee Roy)
Vs.
Sri Jeetaditya Sarkar

Mr. Balaram Neogi

...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 seeking transfer of Matrimonial Suit No.3 of 2023 from the Court of learned Additional District Judge, Nadia at Kalyani to the Court of learned District Judge, South 24 Parganas at Alipore.

The petitioner contended that the petitioner was married with the opposite party on 02.5.2022. She further alleged that after nine days of marriage, the opposite party and his family members started to inflict torture upon her both physically and mentally. She was deprived of proper food and was prevented from making contact with her relatives. Ultimately, the degree of torture reached to such an extent that the petitioner compelled to leave her matrimonial house on 06.6.2022. On that day, she lodged a complaint at Behala Police Station.

The petitioner submits that being an unemployed lady, she has initiated proceeding under Section 125 of the Code of Criminal Procedure which is pending before the

learned Judicial Magistrate at Alipore being M. Case No.896 of 2022.

The petitioner submits that all of a sudden the opposite party has instituted aforesaid matrimonial suit seeking restitution of conjugal rights which is now pending in the court of learned Additional District Judge, Nadia at Kalyani. The petitioner submits that the court at Kalyani situates at a distance of about 74 kms. from her present place of residence and she is facing lot of inconveniences in attending the said proceeding at Kalyani Court.

She further submits that from the cause title of the application it is evident that the opposite party is presently residing at his work place at Bhubaneswar, Orissa and as such, if her prayer for transfer is allowed, it would not be inconvenient to the opposite party. She further submits that the opposite party is contesting the said proceeding initiated under Section 125 of the Code of Criminal Procedure in the court at Alipore. Accordingly, petitioner has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and relying upon unchallenged statement made by the petitioner in the application and that the distance involved between the two places and that the petitioner's application seeking maintenance is pending before the Alipore Court where the opposite party would be required to attend 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 that the present place of residence of the opposite party is at Bhubaneswar, Orissa and if the opposite party is required to attend personally, he will have to come all the way from Bhubaneswar, Orissa and considering all these, the prayer for transfer is allowed.

Accordingly, learned District Judge, Nadia at Krishnagar is hereby directed to withdraw the Matrimonial Suit No.3 of 2023 from the Court of learned Additional District Judge, Kalyani and to transmit the case record to the Court of learned District Judge, South 24 Parganas at Alipore within a period of four weeks from the date of communication of the order.

The transferee court shall hear the said suit taking in his own file or he will be at liberty to transfer the same to any competent court at Alipore having jurisdiction to try the suit.

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.

Since no affidavit has been sought for from the opposite party, the allegations leveled in the application are deemed to have not been admitted by the opposite party.

Department is directed to send a copy of this order to the learned District Judge, Nadia at Krishnagar as well as

learned District Judge, South 24 Parganas at Alipore immediately.

With these observations, C.O. 694 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.)