

15.5.2023
311
Ct. no. 652
sb

CO 766 of 2023

Smt. Madhumanti Chakraborty
Vs.
Sri Abir Chakraborty

Mr. Chiranjib Sinha ...for the petitioner

Mr. Arnab Roy
Mr. Satyam Mukherjee
Ms. Debosmita Mukherje ...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner/wife seeking transfer of Matrimonial suit no. 75 of 2023 presently pending before the court of learned Additional District Judge, Fast Track, 1st Court, Barrackpore, North 24 parganas to the court of learned District Judge, Howrah.

The petitioner contended that the petitioner was married with the opposite party according to the Hindu Rites and Customs and they are blessed with a male child and the petitioner is the custodian of the said child.

All of a sudden, the opposite party has instituted aforesaid suit seeking dissolution of marriage which is now pending in the court of learned Additional District Judge, Barrackpore. The petitioner further states that she was forced to leave her

matrimonial home as she was subjected to severe mental cruelty. She further submits that she has no source of income and the opposite party is not paying any amount of maintenance to her. She further submits that the court at Barrackpore situates far away from her present place of residence and if the suit continues in the Barrackpore court, then the petitioner is to travel the entire distance of 37 kilometres alone, leaving her five years old school going child at her home, which is extremely inconvenient for her. She has no capacity to bear the travelling and other expenses in order to contest the said proceeding at Barrackpore court. Accordingly, the petitioner has prayed for aforesaid transfer.

Learned counsel for the opposite party opposed the said prayer contending that the distance cannot be the sole factor for the transfer and if the prayer for transfer is allowed, it will become hardship for the husband to attend the said proceeding.

Having considered the facts and circumstances of the case and that the petitioner is custodian of a school going child and that she has none to accompany her on her way to Barrackpore court from her place of residence and that this is husband's suit seeking dissolution of marriage and as such wife's inconvenience must be looked at and that the petitioner is an unemployed lady and that the

inconvenience faced by a woman in travelling to another station for pursuing her matrimonial suit in the socio-economic situation prevailing in the country is much more than the inconveniences that might be caused to the husband, the prayer made by the petitioner is allowed.

Learned District Judge, North 24 parganas, Barrackpore is hereby directed to withdraw the Matrimonial suit no. 75 of 2023 presently pending before the court of learned District Judge, Fast Track, 1st Court, Barrackpore, North 24 parganas and to transmit the same 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 serve fresh notice upon both the parties intimating the next date of hearing before proceeding further with the aforesaid suit and will proceed from the stage where it reached till date.

The department is directed to send a copy of the order to the learned District Judge, North 24 parganas, Barrackpore and learned District Judge, Howrah.

Since the opposite party has not been asked to file affidavit, the allegations levelled in the petition, is deemed to have not admitted by the opposite party.

Accordingly, C.O. 766 of 2023 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)