

S/L 299
16.5.2023
Court No.652
SD

CO 932 of 2023

Smt. Sanchari Saha
Vs.
Sri Santanu Saha

Mr. Navanil De
Mr. Aryana Saha
Mr. Rajeshwar Chakraborty
Mr. Srinjon Ghosh
Mr. Subhrajit Dey

...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.492 of 2022 from the Court of learned First Fast Track Court at Serampore, Hooghly to the Court of learned Additional District Judge, South 24 Parganas at Alipore.

The petitioner contended that the petitioner was married with the opposite party on July 31, 2015 under the Special Marriage Act. The parties are blessed with a male child who was born on March 4, 2019 and presently residing with the petitioner/mother. She further submits that after marriage various disputes and differences cropped up between the parties and the petitioner alleged that she was tremendously disturbed mentally and she was also treated with all sorts of cruelties which compelled her to leave her matrimonial house along with her minor son on November

21, 2019. Since then she is residing at her paternal house at Bhabanipur, Kolkata.

The petitioner submits that she has initiated criminal proceeding under Section 498A/406/34 of the Indian Penal Code which is pending before the learned Magistrate, South 24 Parganas at Alipore. She has also initiated proceeding under the provision of Protection of Women from Domestic Violence Act which is also pending before the learned Magistrate at Alipore Court. It is further submitted that opposite party/husband is attending both the proceedings at Alipore Court.

All of a sudden, the opposite party/husband filed aforesaid suit seeking dissolution of marriage which is pending in the Serampore Court. The petitioner submits that the court at Serampore situates at a distance of about 40 kms. from the petitioner's place of residence and she is facing lot of inconveniences in attending the said proceeding at Serampore Court. Accordingly, she has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and that the petitioner is the custodian of a minor child and that two other proceedings initiated by the petitioner are pending at Alipore Court where the opposite party would be required to attend and that this is the husband's suit seeking dissolution of marriage and as such, 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, the prayer for transfer is allowed.

Accordingly, learned District Judge, Hooghly at Chinsurah is hereby directed to withdraw the Matrimonial Suit No.492 of 2022 from the Court of learned First Fast Track Court at Serampore 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 who will either hear the suit taking in its own file or he will be at liberty to transfer the same to any other 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, South 24 Parganas at Alipore as well as learned District Judge, Hooghly at Chinsurah immediately.

With these observations, C.O. 932 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.)