

16.06.2023
Sl. No.15(DL)
srm

C.O. No. 1100 of 2023

Sudeshna De @ Haldar

Versus

Tarun Kumar Haldar

Mr. Somnath Roy Chowdhury,
Ms. Arpita Chowdhury

...for the Petitioner.

Mr. Mrinal Kanti Ghosh

...for the Opposite Party.

This application has been filed for transfer of Matrimonial Suit No.180 of 2023 presently pending before the learned Additional District Judge at Baruipur, South 24-Parganas to the court of the learned District Judge Howrah.

The contention of the wife is that the matrimonial suit deserves to be transferred as other proceedings are pending within the territorial limits of Howrah. The opposite party/husband is regularly contesting the said proceedings. Next, it is contended that the distance between Howrah to Baruipur is more than 40 kms. and there is none to accompany the wife to Baruipur on the dates fixed. It is also submitted that the husband is not paying the maintenance regularly and financial stringency also comes in the way of such long travel that the petitioner has to undertake.

Mr. Ghosh, learned Advocate for the opposite party/husband opposes the prayer of transfer and submits that the husband is employed in a school at Basanti and it would be impossible for the husband to proceed at Howrah on the dates fixed. The allegation of non-payment of arrears of maintenance, is also denied.

Mr. Roy Chowdhury, learned Advocate for the petitioner relies on a decision of the Hon'ble Apex Court in the matter of Tejalben vs. Mihirbhai Bharatbhai Kothari reported in (2016) 3 SCC 69 and submits that the Hon'ble Apex Court had allowed transfer of a suit pending before the Principal Judge, Family Court at Rajkot to Jamnagar. According to Mr. Roy Chowdhury, convenience of the wife should be of paramount consideration and as other proceedings are pending at Howrah, the matrimonial suit should be transferred to the court of the learned District Judge at Howrah.

Having heard the rival contentions of the parties, this Court is of the view that the distance of about 45 kms. is not excessive. The journey to be undertaken by the wife from Baruipur to Howrah cannot be too hectic, but is definitely time consuming. Moreover, there is no threat perception and other

imminent danger. Thus, convenience of both the parties must be looked into.

Under such circumstances, this Court is of the view that justice would be sub-served if the suit is transferred to a place which is equidistant or nearly so, from the petitioner's residence as also the husband's residence and place of work.

The learned District Judge Alipore is directed to withdraw the Suit from the court of the learned Additional District Judge at Baruipur, South 24-Parganas and assign the same to any of the courts of the learned Additional District Judges at Alipore Judges Court, South 24-Parganas, for disposal or disposed of the suit, himself.

Let a copy of this order be communicated to the learned courts below immediately.

The transferee court shall issue notice to the parties.

The Court has faith on Mr. Ghosh and expects that the interim maintenance is paid regularly in accordance with the orders passed.

The application is, thus, disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)