

8.2.2023
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Ct. no. 652
sb

C.O. 1164 of 2022

Smt. Swagata Roy Dey
Vs.
Sri Deborshi Roy

Mr. Rwitendra Banerjee
Mr. Shibasis Chatterjee
Mr. Debducta Pathak ...for the petitioner

Mr. Pinaki Ranjan Chakraborty
 ...for the opposite party

Affidavit-in-reply filed by the petitioner is taken on record.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of the Matrimonial suit being no. 280 of 2017 pending before the court of learned District Judge, Berhampore, Murshidabad to the court of learned Additional District Judge, Barrackpore, North 24 parganas.

The petitioner contended that the petitioner was married with the opposite party on 29th January, 2015 according to Hindu Rites and Customs. The parties are blessed with a male child. The petitioner alleged that she was driven out from her matrimonial home and she had to take shelter at his father's work place at Berhampore. Subsequently, after his father's superannuation, she along with her child, shifted to her father's accommodation at Kharda within the jurisdiction of

Barrackpore court where she is residing along with her child. Aforesaid suit for restitution of conjugal rights, filed by the opposite party/husband against the petitioner/wife is pending in the court of learned District Judge, Berhampore, Murshidabad which situates at a distance of about 179 kilometres from the petitioner's present residence. The petitioner further submits that in order to attend the said proceeding at Berhampore, the petitioner has to take rickshaw to Sodepur station and from there she has to board a local train to reach Ranaghat station. From there she has to board another train to reach Berhampore station, which takes almost four hours and she has to return on the same day. She has no accommodation nor she has any relative at Berhampore and a single day's journey involves a cost of Rs. 600/-. The petitioner is accordingly facing extreme inconvenience to attend the said proceeding at Berhampore. Accordingly, the petitioner has prayed for aforesaid transfer.

Learned counsel for the opposite party raised objection and contended that the opposite party is now posted in a responsible post in the District office at Berhampore and if the prayer for transfer is allowed, then it will be inconvenient for him to attend the said proceeding as he will not be allowed to take leave on every occasion. Considering the convenience for both the parties, learned counsel for the opposite party suggests

that the case may be transferred to such a court, which situates at a mid point of the two stations so that neither party will face any inconvenience.

In view of the judgment reported in N.C.V. Aishwarya Vs. A.R. Saravana Karthik Sha (2022 Live Law (SC) 627, the cardinal principle for exercise of power under Section 24 of the Code is that the ends of justice demands the transfer of suit. It is also settled position of law that under the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

Considered the balance of convenience and inconvenience of the parties and economic soundness of both the parties and that petitioner is custodian of a school going child and also the distance involved in between the two stations and also in view of settled position of law, which leans in favour of petitioner/wife and also the social strata of the parties, I am of the considered opinion that if the case is transferred from where it is pending to the court of learned Additional District Judge, Ranaghat, neither party will have a cause to prejudice.

Learned District Judge, Berhampore, Murshidabad is hereby directed to withdraw the Matrimonial suit being no. 280 of 2017 pending before the court of learned District Judge, Berhampore, Murshidabad and to transmit the same to the court of learned District

Judge, Nadia at Krishnagar within a period of three weeks from the date of communication of the order, who in turn will transfer the same to the court of learned Additional District Judge Ranaghat having jurisdiction to try the suit within a period of three weeks thereafter.

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 learned transferee court will continue the proceeding at the stage where it reached till date.

The department is directed to send a copy of the order to the learned District Judge, Berhampore, Murshidabad and learned District Judge, Nadia at Krishnagar immediately.

Accordingly, C.O. 1164 of 2022 is disposed of.

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

(Ajoy Kumar Mukherjee, J.)