

S/L 220
03.01.2023
Court No.652
SD

CO 1503 of 2022

Smt. Shyamali Sharma
Vs.
Sri Kaushik Banerjee

Mr. Sobhan Majumder
Ms. Kalpita Paul

...for the Petitioner.

Mr. Sudip Ghosh Chowdhury
Ms. Bina Baidya
Mr. Arghya Das

...for the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner seeking transfer of Matrimonial Suit No.84 of 2022 from the Court of learned District Judge, Hooghly at Chinsurah to the Court of learned Additional District Judge, Birbhum at Bolpur.

The petitioner contended that the petitioner was married with the opposite party on January 19, 2021 according to Hindu rites and customs. The petitioner further submits that the father of the petitioner is a day labourer and they belong to BPL (Below Poverty Line) category and the opposite party is a businessman and earns a handsome amount. The father-in-law of the petitioner is also a businessman.

The petitioner alleged that soon after the marriage, the mother-in-law of the petitioner being the opposite party herein put pressure upon the petitioner demanding huge amount from the petitioner's father and due to non-

fulfilment of such demand, the petitioner was subjected to torture both physically and mentally by the opposite party/husband and the in laws. As such, the petitioner was compelled to leave her matrimonial house. All on a sudden, the opposite party has initiated the aforesaid suit for dissolution of marriage in the court of learned District Judge, Hooghly.

The petitioner contended that the petitioner has no personal source of income and the court of learned District Judge, Hooghly at Chinsurah situates at a distance of more than 170 kms. from her present residence.

She further alleged that she has none in her family who can accompany the petitioner to attend the court proceedings by travelling such a long distance. The petitioner further alleged that she is always agree to maintain a peaceful conjugal life and she also eagers to contest the said suit for dissolution of marriage filed by the opposite party/husband. But due to long distance it has become quite impossible for her to conduct said proceeding at Chinsurah and for which she could not take any step for preparation of her written statement. Accordingly, petitioner has sought for aforesaid transfer.

Mr. Sudip Ghosh Chowdhury, learned counsel appearing on behalf of the opposite party, denied the aforesaid allegations and he contended that though the petitioner submits that she belongs to a member of BPL

category, she has not filed any proceeding claiming maintenance.

The opposite party has also specifically denied the allegations leveled against the opposite party and his family members alleging cruelty. He suggests that if the case is at all transferred, it can be transferred in the court of Burdwan which might be convenient for both the parties.

Learned counsel appearing on behalf of the petitioner opposed the said proposal contending that the Court at Burdwan situates at a distance of 80 kms. from her present residence at Bolpur and as such, the inconvenience will be same even if it is transferred to the court at Burdwan.

Having considered the facts and circumstances of the case and that the distance involved between the two places and that the petitioner belongs to a member of BPL family and that her father allegedly a day labourer who is not in a position to accompany her in the said journey and that in such cases where the husband/opposite party has filed a suit for dissolution of marriage, the inconvenience caused to the petitioner is of paramount importance and that the inconvenience caused to a female in travelling to another place for pursuing a matrimonial suit in socio-economic situation prevailing in country, is much more than inconvenience caused to the husband/opposite party and considering all these and also considering decision of Apex Court reported in 2022 Live Law (Sc) 627 (N.C.V. Aishwarya Vs. A.S. Saravana Karthiksha) wherein it was held that in the

prevailing socio-economic paradigm in the Indian Society, it is the wife's convenience which must be looked at while considering transfer, I find that this is a fit case that the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Hooghly, Chinsurah is hereby directed to withdraw the Matrimonial Suit No.84 of 2022 from the court of learned District Judge, Hooghly and to transmit the case record to the Court of learned District Judge, Birbhum at Suri within a period of three weeks from the date of communication of the order. The learned District Judge, Birbhum at Suri, in turn, will transfer the same to the court of learned Additional District Judge, Bolpur having jurisdiction to try the suit within a period of three weeks thereafter.

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.

Department is directed to serve a copy of this order to the learned District Judge, Hooghly at Chinsurah as well as the learned District Judge, Birbhum at Suri.

With these observations, C.O. 1503 of 2022 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.)