

19.7.2023  
162  
Ct. no. 652  
sb

**RVW 100 of 2023  
in  
CO 3908 of 2022**

**Gopal Paul  
Vs.  
Sutapa Biswas Paul**

Mr. Gopal Paul                    ....for the Petitioner-in-person

Mr. Dhruba Mukherjee  
Mr. Asraf Mondal  
Mr. Ajit Kumar Barman    ... for the opposite party

This is an application for review of the order passed on 20<sup>th</sup> April, 2023 in C.O. 3908 of 2022. By the said order, this court while disposing the application under Section 24 of the Code of Civil Procedure, was pleased to allow the petitioner's prayer for transfer of matrimonial suit being erstwhile no. 383 of 2022 from the court of learned District Judge, Nadia at Krishnanagar to the court of learned District Judge, Paschim Barddhaman at Asansol.

The petitioner/husband of the review application submits that the opposite party/wife and his family members are very influential and desperate persons and previously they had assaulted the petitioner and had driven him out from their flat and for which he has lodged complain on 16.7.2022 , 11.7.2022. The petitioner is very much apprehensive and he submits

that if he is compelled to attend the said proceeding at Asansol, any unwanted incident may occur and he may be assaulted by the opposite party and his family members. Accordingly, the petitioner has prayed for reviewing of the said order and prays that instead of Asansol Court, it may be transferred to any other nearby court so that he can proceed with the suit without any interference or influence by the opposite party and her family members who reside within Asansol Police Station. In support of his contention, petitioner has annexed copy of complain and medical treatment.

Learned counsel for the opposite party submits that the opposite party/wife has already initiated a criminal proceeding under Section 125 of the Code of Criminal procedure, which is pending in the court of Asansol and considering this aspect, this court was pleased to observe since the petitioner herein will have to attend the said maintenance proceeding at Asansol court, if the present case is also transferred to the Asansol court, the petitioner herein will not face any inconvenience. He further submits that the distance between the Asansol court and nearby any other court is not less than 50 kilometers. He further contended that scope of review under the Code of Civil Procedure is very limited and court can entertain prayer for review if some mistake or error is apparent on the face of the

record. Since no mistake or error is apparent on the face of the order impugned, the prayer for review is misconceived.

On perusal of order impugned it appears that the petitioner herein as opposite party prayed for transferring the suit in any mid-point stationed court. However said impugned order was passed considering the distance factor and that other maintenance proceeding pending in Asansol court and without discussing about the documents annexed with affidavit in reply by the petitioner herein. Petitioner in the review prayer stressed on those documents disclosing his apprehension of threat and danger. "Any other sufficient reason" as contemplated under order XLVII, Rule 1 (1) of C.P.C. includes misconception of the court, which is analogous to an error on the face of the record.

upon considering the submissions made by both the parties, the prayer for review is allowed. The order dated 20.4.2023 is modified to the extent that the matrimonial suit being erstwhile no. 383 of 2022 which has already been transferred to the court of learned District Judge, Asansol is hereby re-transferred to the court of learned District Judge, Purba Barddhaman at Barddhaman.

In such view of the matter, learned District Judge, Paschim Barddhaman at Asansol is hereby directed to transmit the said case record of matrimonial suit being

erstwhile no. 383 of 2022 from the court of learned District Judge, Paschim Bardhaman at Asansol to the court of learned District Judge, Purba Bardhaman at Bardhaman within a period of three weeks from the date of communication of the order. The transferee court at Bardhaman shall give fresh notice to both the parties intimating the next date of hearing before taking up further proceeding of the suit and transferee court shall proceed with the suit at the stage where it reached till date.

The transferee court shall make every endeavour for disposal of the aforesaid matrimonial suit within a period of ten months from the date of communication of the order.

The department is directed to send a copy of this order to the learned District Judge, Paschim Bardhaman at Asansol and learned District Judge, Purba Bardhaman at Bardhaman at once.

Accordingly, RVW 100 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.)**