

13.2.2023
153
Ct. no. 652
sb

C.O. 1848 of 2022

**Smt. Sonia Prasad
Vs.
Sri Ravi Shaw**

Mr. Anirban Banerjee ...for the petitioner

Mr. Sounak bhattacharya
Mr. Sounak Mondal
Mr. Anirban Saha Roy ...for the opposite party

Affidavit of service 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. 1086 of 2022 pending before the court of learned Additional District Judge, 15th Court, Alipore, South 24 parganas to the court of learned District Judge, Jalpaiguri.

The petitioner contended that the petitioner was married with the opposite party on 1.7.2014 according to the Hindu Rites and Customs at Siliguri. The petitioner alleged that after few days of marriage, several disputes have been cropped up between the parties and as a result she was subjected to mental and physical torture by her husband and her other in laws. The petitioner states that she is now posted as Assistant teacher in a Government aided school at Nagrakata. The petitioner

further states that the parties are blessed with a female child who was born on 18th March, 2017 and presently residing with the petitioner. The petitioner further alleged that the opposite party/husband, all of a sudden, filed aforesaid suit for dissolution of marriage on 4.4.2022 which is presently pending before the Alipore court. She further alleged that the distance in between the present place of residence of the petitioner and Kolkata is more than 700 kilometres and it takes more than 15 hours journey in one way. Furthermore, the petitioner contended that she has to look after her daughter and she is not in a position to travel alone on each date to attend the court proceeding. Accordingly, the petitioner has sought for aforesaid transfer.

Learned counsel for the opposite party raised objection and contended that earlier a suit for restitution of conjugal rights was filed by the husband where the petitioner was contesting but subsequently the petitioner filed an application for transfer before this court which was ultimately dismissed for default. The opposite party relying upon medical documents annexed with affidavit-in-opposition contended that he is suffering from various ailments and is not in a position to travel such a long distance and accordingly he prayed for dismissal of transfer application.

Having considered the facts and circumstances of the case and that the petitioner is employed as an

Assistant teacher in a local school and that she is custodian of a child aged about five years and that the distance involved between the two places is about 700 kilometres and that in such cases, where the opposite party has filed a suit for dissolution of marriage, the convenience of the petitioner is of paramount importance and also considering the inconveniences caused to a female in travelling to another place for pursuing her matrimonial suit through public transportation, in the socio economic situation prevailing in country, is much more than the inconvenience that might be caused to the opposite party/husband, I think if the suit is transferred to the Siliguri court, it would not be much inconvenient to either of the parties and that court has also got the jurisdiction in view of the fact that marriage took place within the jurisdiction of Siliguri court.

In view of above, learned District Judge, Alipore, South 24 parganas is hereby directed to withdraw the Matrimonial suit being no. 1086 of 2022 pending before the court of learned Additional District Judge, 15th Court, Alipore, South 24 parganas and to transmit the same to the court of learned District Judge, Derjeeling 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, Siliguri 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, South 24 parganas, Alipore and learned District Judge, Darjeeling immediately.

Accordingly, C.O. 1848 of 2022 is disposed of.

However, it is made clear that I have not gone into the merits of the suit and learned transferee court is requested to make expeditious disposal of the suit.

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.)