

S/L 276
23.3.2023
Court No.652
SD

CO 2226 of 2022

Smt. Bhaswati Bera (Ghosh)

Vs.

Sourav Ghosh

Mr. Subhash Chandra Basu

...for the Petitioner.

Mr. Santu Nandy

...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.2581 of 2021 from the Court of learned Additional District Judge, 7th Court, North 24 Parganas at Barasat to the Court of learned District Judge, Howrah.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on March 13, 2013. The parties are blessed with a female child who was born on March 10, 2014 and the child is residing with the petitioner. The petitioner alleged that since one months after the said marriage, she was subjected to physical and mental torture at the behest of the opposite party and in laws.

The petitioner further alleged that ultimately she was forcefully ousted from the matrimonial house on November 28, 2015. She has also lodged criminal case under Section 498A/406/34 of the Indian Penal Code which is now pending in the court at Howrah. She has also initiated proceeding under Section 12 of the Protection of Women

from Domestic Violence Act which is also pending before the learned Magistrate, Howrah. She further stated that in both the proceedings the opposite party appeared and contesting the said proceedings.

All of a sudden, the opposite party has filed the aforesaid suit seeking dissolution of marriage which is now pending in the court of learned Additional District Judge at Barasat. The distance involved between two places is about 40 kms. and the petitioner is facing lot of inconveniences as she has to travel through public transportation along with the minor child and as there is none to look after the minor child. She also submits that there is none to escort the petitioner on her way to Barasat Court. Accordingly, she has sought for aforesaid transfer.

Learned counsel appearing on behalf of the opposite party raised objection contending that the opposite party is a LIC agent and he is badly engaged with his profession and as such, if the aforesaid prayer for transfer is allowed, he will be deprived of his daily earnings.

Having considered the facts and circumstances of the case and that the petitioner/wife is the custodian of a minor child and also considering the distance involved between the two places and that other two proceedings are pending in the Howrah Court where the opposite party would be required to attend and that this is husband's suit for dissolution of marriage and the settled principle is that the wife's convenience in such cases must be looked at and that the inconvenience caused to a woman in travelling to another

place for pursuing matrimonial suit through public transportation in the socio-economic situation prevailing in the country, is much more than the inconveniences that might be caused to the husband/opposite party and considering all these the prayer for transfer is allowed.

Accordingly, learned District Judge, North 24 Parganas at Barasat is hereby directed to withdraw the Matrimonial Suit No.2581 of 2021 from the Court of learned Additional District Judge, Barasat and to transmit the case record to the Court of learned District Judge, Howrah within a period of three weeks from the date of communication of the order.

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 and the transferee court shall proceed with the suit at the stage where it reached till date.

Department is directed to send a copy of this order to the learned District Judge, North 24 Parganas at Barasat as well as learned District Judge, Howrah immediately.

With these observations, C.O. 2226 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.)