

S/L 277
23.3.2023
Court No.652
SD

CO 2259 of 2022

Smt. Swastidipta Majumder (Deb)
Vs.
Shri Partha Pratim Majumder

Mr. Debabrata Acharyya
Mr. Sital Samanta
Ms. Debjani Saha

...for the Petitioner.

Affidavit of service filed by the petitioner in court today be kept with the record.

In spite of service, opposite party is not represented.

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.17 of 2021 from the Court of learned Additional District Judge, Fast Track Court at Durgapur to the Court of learned Additional District Judge, Siliguri.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on December 9, 2012. The petitioner alleged that she was subjected to physical and mental torture by the husband/opposite party and her in laws and finally on June 8, 2020 she was driven out from her matrimonial home.

All of a sudden, the opposite party/husband filed aforesaid suit seeking dissolution of marriage which is pending in the court at Durgapur. The petitioner submits that she has already initiated a proceeding under the provisions of Protection of Women from Domestic Violence

Act which is pending in the court of learned Judicial Magistrate, Siliguri as she does not have any source of income.

The distance in between the petitioner's present place of residence and the court at Durgapur is about 550 kms. by road in a single journey and she has none in her family to accompany her for such long journey to attend the said proceeding. Moreover, the opposite party has threatened the petitioner with dire consequences, if she does not agree with mutual divorce and as such, she has become afraid of attending the court at Durgapur alone. She also does not have financial support to spend travelling cost and other incidental expenditure for attending the said matrimonial proceeding and accordingly, she has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and that the distance involved between the two places and that other proceedings are pending in the Siliguri Court where the opposite party would be required to attend and that this is the 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, Paschim Bardhaman at Asansol is hereby directed to withdraw the Matrimonial Suit No.17 of 2021 from the Court of learned Additional District Judge, Durgapur and to transmit the case record to the Court of learned District Judge, Darjeeling 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 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, Paschim Bardhaman at Asansol as well as learned District Judge, Darjeeling immediately.

With these observations, C.O. 2259 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.)