

215 25.01.2023
NB Ct. 652

CO 2419 of 2022

Smt. Moumita Pandit
Vs.
Sri Subhendu Pandit

Mr. Suchindram Bhattacharya.
...for the petitioner.

Affidavit of service filed on behalf of the petitioner is taken on record.

In spite of service, opposite party is not represented.

This is an application under Section 24 of the Civil Procedure Code seeking transfer of Matrimonial Suit No.61 of 2020 pending before learned Additional District Judge, Mathabhanga, Cooch Behar to the Court of learned District Judge, Nadia.

The petitioner contended that the petitioner was married with the opposite party on 2nd December, 2019. The parties are blessed with a girl child born due to said wedlock and she is presently residing with the petitioner and she is pursuing her studies in a school at Nabadwip. The petitioner alleged that after marriage the opposite party and his family members inflicted mental and physical torture and ultimately, she was driven out from her matrimonial home. Presently, the petitioner is residing with her mother and there is no one to look after petitioner or her little child and the opposite party is not paying any amount of maintenance even to the child.

In the meantime, the husband/opposite party has filed the aforesaid suit for restitution of conjugal rights which is now pending before the learned Additional District Judge at Mathabhanga, Cooch Behar. The petitioner submits that the distance involved between her present place of residence and the Court at Mathabhanga is about 554 kilometres and it takes twelve hours journey by road, which is practically impossible for a lady having a small school going daughter to travel and to attend and pursue aforesaid proceeding.

The petitioner has initiated proceeding under Section 125 of the Code of Criminal Procedure against the opposite party, which is pending in the Court of Krishnanagar, Nadia and she has also initiated another proceeding under Section 12 of the Protection of Women from Domestic Violence Act, which is now pending before the learned Chief Judicial Magistrate, Krishnanagar, Nadia. The other criminal proceeding under Section 498A of the Indian Penal Code against the opposite party and others, is also pending before the learned Chief Judicial Magistrate, Krishnanagar, Nadia and the opposite party has appeared and contesting all those proceedings pending at Krishnanagar Court. It is further submitted that the husband/opposite party has initiated a Civil Suit against the present petitioner and others, which is also pending before the learned Civil Judge (Sr. Div.) at Krishnanagar. Accordingly, the petitioner submits that if the aforesaid prayer for transfer is allowed, the opposite party will not face any inconvenience in proceeding the said suit along with said other proceedings at Krishnanagar Court.

Having considered the facts and circumstances of the case and also the distance involved between the two places and that the petitioner is custodian of a little child and that at least other four proceedings between the parties are pending in Krishnanagar Court where the opposite party would be required to attend and that the inconveniences faced by a female in travelling to another place along with the little child through public transportation for pursuing said Matrimonial Suit, in socio economic situation in our country, is much more than the inconvenience that might be caused to opposite party, the prayer made by the petitioner is allowed.

Learned District Judge, Cooch Behar is hereby directed to withdraw Matrimonial Suit No.61 of 2020 from the Court of learned Additional District Judge, Mathabhanga, Cooch Behar and to transmit the same to the Court of learned District Judge, Nadia within three weeks from the date of communication of the order.

The transferee Court shall serve notice upon both the parties intimating next date of hearing before proceeding further with the Suit and will continue with the proceeding from the stage where it reached till date.

The department is directed to send a copy of this order to the learned District Judge, Krishnanagar, Nadia and to the learned District Judge, Cooch Behar immediately.

C.O. 2419 of 2022 is accordingly disposed of.

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.)