

S/L 193
30.01.2023
Court No.652
SD

CO 2586 of 2022

Khusboo Prasad
Vs.
Bapi Saha

Mr. Apurba Kumar Dutta
Mr. Kuntal Banerjee

... for the Petitioner.

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

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.98 of 2021 pending before the Court of learned Additional District and Sessions Judge, 1st Court at Islampur, Uttar Dinajpur to the Court of learned District Judge, Paschim Bardhaman at Asansol.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on November 22, 2016. The petitioner submits that she is an unfortunate destitute lady having no source of income and passing her days in great misery as well as hardship and presently living with the charity of her father.

The opposite party has filed aforesaid suit for restitution of conjugal right being Matrimonial Suit No.98 of 2021 which is pending before the Court of learned Additional

District and Sessions Judge, 1st Court at Islampur, Uttar Dinajpur.

The petitioner submits that the distance involved between her present residence and the Islampur Court is about 394 kms. and it has become impossible for her to conduct the said litigation by travelling such a long distance. Moreover, the petitioner's financial condition as well as health condition does not permit her to bear the expenses and contesting the said suit in the Islampur Court.

The petitioner further alleged that the opposite party is very influential person and a resident of Uttar Dinajpur and as such, the petitioner has reasonable apprehension that the opposite party by practicing oblique means can create impediment to conduct the litigation. Accordingly, petitioner has sought for the aforesaid transfer.

In view of the facts and circumstances of the case and considering the distance involved between two places and that one proceeding is pending in Asansol Court where the opposite party would be required to attend and that in such cases where the husband has filed a suit for dissolution of marriage, the convenience of the petitioner is of paramount importance and that the inconvenience caused to a female in travelling another places for pursuing her suit for dissolution of marriage in the socio-economic situation of our country is much more than inconvenience caused to husband/opposite party, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Uttar Dinajpur at Islampur is hereby directed to withdraw the Matrimonial Suit No.98 of 2021 presently pending before the Court of learned Additional District and Session Judge, 1st Court at Islampur and to transmit the case record to the Court of learned District Judge, Paschim Bardhaman at Asansol 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, Uttar Dinajpur at Islampur as well as the learned District Judge, Paschim Bardhaman at Asansol.

With these observations, C.O. 2586 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.)