

S/L 277
18.4.2023
Court No.652
SD

CO 2932 of 2022

Puja Shaw
Vs.
Rakesh Payra

Mr. Suchindram Bhattacharjee

...for the Petitioner.

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

The order dated 24.11.2022 passed in Other Suit No.94 of 2021 goes to show that there is a reference about pendency of this revisional application where the opposite party herein is contesting as plaintiff.

In spite of knowledge, opposite party chooses not to contest the present proceeding.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Other Suit No.94 of 2021 from the Court of learned Civil Judge (Junior Division), 2nd Additional Court, Contai, Purba Medinipur to the Court of learned District Judge, North 24 Parganas.

The petitioner contended that the opposite party filed aforesaid suit for declaration that the defendant/petitioner herein is not the legally married wife of the plaintiff/opposite party herein and for permanent injunction restraining the petitioner herein from claiming, demanding and/or representing herself in the society or anywhere as legally married wife of the plaintiff and the said suit is pending in the court at Contai, Purba Medinipur.

The petitioner submits that she is the legally married wife of the opposite party and a male child has taken birth due to said wedlock, who is presently residing with the petitioner herein. The petitioner further alleged that she was

subjected to physical and mental torture after marriage and she was ultimately driven out from her matrimonial home. The petitioner is presently residing at Habra within the district of North 24 Parganas.

The petitioner further contended that she is an unemployed lady and there is none in her family to look after her and her child. Moreover, her present place of residence situates at a distance of about 185 kms. from the court at Contai, Purba Medinipur. Accordingly, she is facing lot of inconvenience in attending the said proceeding at Contai Court, though she is very much eager to contest the said suit. She does not have the capacity to bear the financial burden of travelling the said distance and as such, 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 the petitioner is custodian of a minor child and that this is husband's suit denying marital relationship and for which convenience of the petitioner must be looked at and that the inconveniences 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 that our constitutional scheme provides for guaranteeing equal access to justice and power of the State to make special provision for women and children and considering all these, the prayer for transfer is allowed.

Accordingly, learned District Judge, Purba Medinipur at Tamluk is hereby directed to withdraw the Other Suit No.94 of 2021 from the Court of learned Civil Judge (Junior Division), 2nd Additional Court, Contai, Purba Medinipur and to transmit the case record to the Court of learned District Judge, North 24 Parganas at Barasat within a period of three weeks from the date of communication of the order,

who in turn will transfer the same to learned Civil Judge at Barasat having pecuniary jurisdiction to try the said 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, North 24 Parganas at Barasat as well as learned District Judge, Purba Medinipur immediately.

With these observations, C.O. 2932 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.)