

S/L 249
28.02.2023
Court No.652
SD

CO 3054 of 2022

Susmita Ghosh (Roy)
Vs.
Joydep Ghosh

Mr. Subhas Chandra Atha
Ms. Payel Paramanik

...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.178 of 2021 from the Court of learned Additional District Judge, Purba Bardhaman at Kalna to the Court of learned District Judge, Paschim Medinipur.

The petitioner contended that the petitioner was married with the opposite party under the Special Marriage Act on 26.10.2016. The petitioner submits that she can resume conjugal life with the opposite party if the opposite party keeps her with dignity as a wife in her matrimonial house otherwise the petitioner has strong objection in the opposite party's aforesaid prayer for dissolution of marriage and as such, she is willing to contest the aforesaid suit filed by the husband/opposite party under Section 27 of the Special Marriage Act which is now pending in the Court of Kalna, Purba Bardhaman.

The Court at Kalna situates at a distance of about 200 kms. in a single journey from her present place of residence and it involves around 18 hours journey and as such, she is facing lot of difficulties in contesting the said suit. She has no independent source of income and her parents are old aged.

The petitioner has instituted one proceeding under Section 125 of the Code of Criminal Procedure seeking maintenance which is pending in the court of learned Chief Judicial Magistrate, Paschim Medinipur. The petitioner further submits that if the aforesaid prayer for transfer is allowed, the opposite party will not face any inconvenience and as such, she has sought for aforesaid transfer.

Having considered the aforesaid facts and circumstances of the case and that the distance involved between the two places and that one proceeding is pending in the Court of Paschim Medinipur 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 cause to a woman in travelling to another place for pursuing matrimonial suit through public transportation in the socio-economic condition 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, Purba Bardhaman is hereby directed to withdraw the Matrimonial

Suit No.178 of 2021 from the Court of learned Additional District Judge, Purba Bardhaman at Kalna and to transmit the case record to the Court of learned District Judge, Paschim Medinipur 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, Purba Bardhaman as well as learned District Judge, Paschim Medinipur immediately.

With these observations, C.O. 3054 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.)