

227 25.01.2023
NB Ct. 652

CO 3078 of 2022

Smt. Baisakhi Chatterjee
Vs.
Sri Rajdeep Chatterjee

Mr. Sounak Bhattacharya,
Mr., Abhirup Haldar.
...for the petitioner.

Mr. Debasis Kar.
...for the OP.

This is an application under Section 24 of the Civil Procedure Code seeking transfer of Matrimonial Suit No.751 of 2022 presently pending before the Court of learned Additional District Judge, Barrackpore to the Court of learned District Judge, Alipore, South 24 Parganas.

The petitioner contended that the marriage between the parties was solemnised on 04.03.2022 as per Hindu Rites and Customs. She alleged that after marriage, she was subjected to physical and mental torture and as her health was deteriorating due to torture, she was forced to return to her paternal home and presently she is staying at her paternal home at Jadavpur, Kolkata.

In the meantime, the husband/opposite party has initiated the aforesaid matrimonial suit for dissolution of marriage, which is pending in the Court of Barrackpore. Petitioner submits that the petitioner being an unemployed lady has filed an application under Section 12 of the Protection of Women from Domestic Violence Act, which is pending before

the Court of learned Additional Chief Judicial Magistrate, Alipore and she has also initiated another proceeding under Section 125 of the Code of Criminal Procedure praying maintenance, which is also pending before the learned Additional Chief Judicial Magistrate, Alipore. He further submits that the opposite party is contesting the aforesaid proceedings and attending the Alipore Court on regular basis.

The petitioner submits that the distance involved between the two places is about 50 kilometres and it involves two hours fifteen minutes journey. There is none in the petitioner's family to escort her. The petitioner's father is working in a private company in Kolkata. Accordingly, the petitioner has sought for aforesaid transfer.

Learned counsel appearing on behalf of the opposite party raised objection against the said prayer for transfer and contended that the distance between the two places is not much and the petitioner/wife being a major lady can very well avail the said journey as also the petitioner is not custodian of any child and as such the grounds for transfer as assigned in the petition is not sufficient. There is sufficient number of train services from his place of residence to reach Barrackpore.

Having considered the facts and circumstances of the case and the distance involved between the two places and that the other two proceedings initiated by the petitioner are pending before Alipore Court where the opposite party would be required to attend and that in such cases where the husband/opposite party 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 to another place for pursuing said Matrimonial Suit, through public transportation, is much more than the inconveniences that might be caused to husband/opposite party, the prayer made by the petitioner is allowed.

Learned District Judge, South 24 Parganas at Barasat is hereby directed to withdraw Matrimonial Suit No.751 of 2022 from the Court of learned Additional District Judge, Barrackpore, 24-Parganas (North) and to transmit the case to the Court of learned District Judge, Alipore, South 24-Parganas within three weeks, from the date of communication of the order for disposal.

The transferee Court shall inform both the parties about the next date of hearing before proceeding further with the Suit and the transferee Court will proceed from the stage where it reached till date.

The department is directed to send a copy of this order to the learned District Judge, North 24-Parganas at Barasat and to the learned District Judge, South 24-Parganas at Alipore.

C.O. 3078 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.)

