

23.3.2023
280
Ct. no. 652
sb

C.O. 3145 of 2022

Utpala Mandal @ Ghosh
Vs.
Manoj Mondal

Mr. Abhinaba Dan
Mr. Nitish Samanta ...for the petitioner

Affidavit of service filed by the petitioner is taken on record. In spite of service, opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of the Matrimonial suit no. 236 of 2022 presently pending before the court of learned District Judge, Birbhum to the court of learned District Judge, Bankura.

The petitioner contended that the petitioner was married with the opposite party on 5th July, 2011 according to Hindu Rites and Customs. Parties are blessed with a male child who are presently residing with the mother/petitioner. The petitioner alleged that during her stay at her matrimonial home, she was subjected to physical and mental torture and the limit of torture was increased day by day and thereby she became ill and ultimately she was driven out with the child from her matrimonial home on 16.6.2016. since then, she is residing at her present address at Gangajalghati,

Bankura. The petitioner further submits that she has initiated a proceeding under Section 12 of the Protection of Women from Domestic Violence Act which is pending in the court of learned Judicial Magistrate, Bankura and another proceeding initiated by her seeking maintenance under Section 125 of the Code of Criminal Procedure is also pending in the court of learned Chief Judicial Magistrate, Bankura wherein the opposite party would be required to attend.

All of a sudden, the husband/opposite party has filed aforesaid suit seeking dissolution of marriage which is pending in the court of learned District Judge, Birbhum. The petitioner is facing extreme difficulty in attending the said proceeding at Birbhum court which situates at a distance of about 110 kilometres from her present place of residence. Accordingly, the petitioner has prayed for aforesaid transfer.

In view of the aforesaid facts and circumstances of the case and that the distance involved between the two places is about 110 km and that the petitioner is the custodian of a minor child and that petitioner has already initiated two proceedings which are pending in the court at Bankura, where the opposite party would be required to attend and that this is husband's suit for dissolution of marriage and as such the convenience of the petitioner must be looked at and that the inconvenience caused to a female in travelling to another station for pursuing

matrimonial suit through public transportation in the socio economic situation prevailing in the country, is much more than the inconvenience that might be faced by the opposite party, the prayer made by the petitioner is allowed.

Learned District Judge, Suri at Birbhum is hereby directed to withdraw the Matrimonial suit no. 236 of 2022 presently pending before the court of learned District Judge, Birbhum and to transmit the same to the court of learned District Judge, Bankura within a period of three weeks from the date of communication of the order.

The transferee court shall serve fresh notice upon both the parties intimating the next date of hearing before proceeding further with the aforesaid suit and will proceed from the stage where it reached till date.

Since no affidavit-in-opposition has been sought for from the opposite party, the allegations levelled against the husband/opposite party in the application, deemed to have not admitted by the opposite party.

The department is directed to send a copy of the order to the learned District Judge, Bankura and learned District Judge, Birbhum immediately.

Accordingly, C.O. 3145 of 2022 is 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.)