

9.1.2023
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Ct. no. 652
sb

C.O. 3161 of 2022

Smt. Sudipa Singha Roy
Vs.
Sri Subhamaya Singha

Mr. Aninda Lahiri
Mr. Manas Malakar ...for the petitioner

Mr. Avinaba Patra
Mr. Partha Sarathi Das
Ms. Souraja De ...for the opposite party

Affidavit of service filed by the petitioner is taken on record.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of the Matrimonial suit no. 2 of 2022 presently pending before the court of learned Additional District Judge, Fast Track Court, 3rd Court, Malda to the court of learned Additional District Judge, Barrackpore, North 24 parganas.

The petitioner contended that the petitioner is the wife of the opposite party and their marriage was solemnised according to the Hindu rites and customs on 5.1.2022. The petitioner further allged that since she was driven out and abandoned by the opposite party in the year 2015, she is presently residing with her father's house at Belgharia, North 24 parganas. The petitioner further submits that they are blessed with a female child who is now aged about 7 years and pursuing her studies at a local school. She further submits that she is facing

tremendous difficulties to contest the suit at Malda which is at a distance of about 400 kilometres from the petitioner's place of residence. She further alleged that on 26.7.2022 when the petitioner reached Malda to attend the said court, she was obstructed and wrongfully restrained by the opposite party along with his associates and against such illegal activities on the part of the opposite party, the petitioner rushed to the nearest Englishbazar Police Station on the same day and duly reported the matter and lodged written complaint. In view of the facts of the case, the petitioner is very much frightened and afraid of that opposite party and his associates and accordingly, she has prayed for aforesaid transfer.

The petitioner in this context, has relied upon two judgments, one *Susmita Singh Vs. Kumar Sanjay* reported in AIR 2002 SC 396 and another *Ms. Shakuntala Modi Vs. Om Prakash Bharuka* reported in (1991) 2 SCC 706 and contended that the wife's convenience must be looked at while disposing of such application for transfer.

Learned counsel for the opposite party submits that he has specific instruction that the petitioner is not an unemployed lady. He further submits that even if this court pleases to transfer the said proceeding, it may be transferred in a place which would be almost in an equal distance from the residence of both the parties.

Having considered the facts and circumstances of the case and that distance in between the two places is about 400 kilometres and that the petitioner is the custodian of a female child who is school going 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 wife's convenience must be looked at while considering such prayer and also considering the distance which is an important factor for both the parties, C.O. 3161 of 2022 is disposed of with a direction upon the learned District Judge, Malda to withdraw the matrimonial suit no. 2 of 2022 presently pending before the court of learned Additional District Judge, Fast Track Court, 3rd Court, Malda and to transmit the same to the court of learned District Judge, Nadia at Krishnagar within a period of three weeks from the date of communication of the order, who in turn will transfer the same to the court of learned Additional District Judge, Ranaghat having jurisdiction to try the suit within a period of three weeks thereafter.

The transferee court shall serve fresh notice upon both the parties intimating the next date of hearing before proceeding further with the aforesaid suit.

The department is directed to send a copy of the order to the learned District Judge, Nadia at Krishnagar and learned District Judge, Malda.

Accordingly, C.O. 3161 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.)