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17.01.2023
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C.O. No. 3185 of 2022

Smt. Bipasha Sarkar
-Vs.-
Arindam Bairagi

Mr. Mit Guha Roy
...for the petitioner

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

In spite of service, the 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. 57 of 2021 from the Court of the learned District Judge at Jhargram to the Court of the learned District Judge south 24 Parganas at Alipore.

The petitioner contended that the marriage between the parties was solemnized according to the Hindu rites and customs on 27.01.2019. The parties were blessed with a male child, who was born on 19.11.2019 and now residing with the petitioner. The petitioner alleged that she has been forcibly ousted from her matrimonial home and, as such, she has taken shelter at her relative's house at Thakurpukur, Kolkata. The

petitioner further submits that she was compelled to lodge a complain at Thakurpukur Police Station against the husband/opposite party alleging torture and the said proceeding is pending in the Court at Alipore. The petitioner also initiated a proceeding under Section 125 of the Code of Criminal Procedure seeking maintenance for herself and her child, which is pending before the learned Additional Chief Judicial Magistrate at Alipore and she has further initiated another proceeding under Section 12 of the Protection of Women from Domestic Violence Act, which is presently pending before the learned Judicial Magistrate, 2nd Court at Alipore.

The opposite party/husband, in the meantime, has initiated the aforesaid proceeding under Section 9 of the Hindu Marriage Act for restitution of conjugal rights, which is now pending in the Court of the learned District Judge at Jhargram.

The petitioner submits that the distance in between her present place of residence at Thakurpukur and the Jhargram Court is about 160 kilometers in one way and it is very difficult for the petitioner to travel such a long distance along with her child. The petitioner has none to accompany her for attending the hearing at

Jhargram Court. The petitioner further contends that she also apprehends serious danger from the part of her husband and his parents, as several attempts have been made to beat and hurt the petitioner on several occasions and they also threatened the petitioner with dire consequences.

In the aforesaid circumstances, the petitioner has sought for aforesaid transfer of the matrimonial suit filed by the opposite party/husband.

Having considered the facts and circumstances of the case and also the distance involved between the two places and that the petitioner is the custodian of a minor child and that three other proceedings initiated by the petitioner against the opposite party/husband are pending in the Alipore Court where the husband/opposite party would be required to attend and that in such cases the convenience of the petitioner is of paramount importance and that the inconvenience caused to the petitioner in travelling to another place for pursuing the said matrimonial suit along with her minor child, in socio-economic situation prevailing in our country, is much more than the inconvenience caused to the husband/opposite party, the prayer of the petitioner is allowed.

The learned District Judge, Jhargram is directed to withdraw the Matrimonial Suit No. 57 of 2021 from the Court of the learned District Judge at Jhargram and transmit the same to the Court of learned District Judge at Alipore within a period of three weeks from the date of communication of this order.

The learned District Judge at Alipore either will hear the matter himself from the stage where it reached till date or he may transfer the same to any other Court at Alipore having jurisdiction to try the suit.

The transferee court shall issue notice to both the parties intimating the next date of hearing before proceeding further with the suit.

The department is directed to serve copy of this order to the Court of learned District Judge at Jhargram and the learned District Judge at Alipore immediately.

C.O. No. 3185 of 2022 is, accordingly, disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties as early as possible.

(Ajoy Kumar Mukherjee, J.)