

S/L 195
31.01.2023
Court No.652
SD

CO 3324 of 2022

Smt. Aditi Bhattacharya Chanda
Vs.
Chiradeep Bhattacharya

Mr. Nimai Chandra Konar
Mr. Mihir Kumar Das

...for the Petitioner.

Mrs. Subhasree Patel
Ms. Saini Das

...for the Opposite Party.

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.1499 of 2022 pending before the Court of learned Additional District Judge, 3rd Court, South 24 Parganas at Alipore to the Court of learned Additional District Judge, Lalbag, Murshidabad.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on 05.9.2020. The petitioner alleged that during her stay at her matrimonial home, she was subjected to physical and mental torture and for which she had lodged complaint.

She further alleged that her husband and in laws have driven her from her matrimonial house and for which she is now residing at her present residence at Chakbazar, Murshidabad.

The petitioner submits that she has initiated a proceeding for restitution of conjugal right which is pending

in the court of learned Additional District Judge, Fast Track Court-I, Lalbag, Murshidabad. She further submits that she has initiated a proceeding under Section 125 of the Code of Criminal Procedure and also another proceeding under the provision of Protection of Women from Domestic Violence Act and both the said cases are pending before the learned Magistrate at Lalbag, Murshidabad.

The petitioner further contended that the opposite party is contesting the aforesaid proceedings at Lalbag. She further contended that the distance involved between the two places is about 400 kms. and the petitioner is to look after her aged ailing mother as there is no other male member in her family.

Petitioner further submits that she is facing lot of inconvenience in pursuing the said proceeding at Alipore Court due to long distance and also because there is no member in her family to accompany her. Accordingly, she has sought for aforesaid transfer.

Learned counsel appearing on behalf of the opposite party candidly submits that if the aforesaid prayer for transfer is allowed, the opposite party has got no objection but liberty may be given for consolidation of dates along with other proceedings pending before the Lalbag Court.

In view of the aforesaid facts and circumstances of the case and also considering the distance involved between the two places and that other three proceedings are pending before the Lalbag Court where the opposite party would be

required to attend and that the learned counsel for the opposite party has not raised any objection in connection with the aforesaid transfer, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, South 24 Parganas at Alipore is hereby directed to withdraw the Matrimonial Suit No.1499 of 2022 from the Court of learned Additional District Judge, 3rd Court, Alipore and to transmit the case record to the Court of learned District Judge, Murshidabad at Berhampur 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, Lalbag having jurisdiction to try the aforesaid suit within a period of three weeks thereafter.

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.

The opposite party will be at liberty to seek for consolidation of dates, if any, before the court concerned.

Department is directed to send a copy of this order to the learned District Judge, South 24 Parganas at Alipore as well as the learned District Judge, Murshidabad at Berhampur.

With these observations, C.O. 3324 of 2022 is disposed of.

Since the opposite party has not been asked to file any affidavit-in-opposition, the allegations levelled against the opposite party in the revisional application be deemed to have not admitted.

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.)