

1.2.2023
208
Ct. no. 652
sb

C.O. 3551 of 2022

Smt. Soma Ghosh
Vs.
Sri Purnendu Dey

Mr. Amitava Ghosh
Ms. Nabanita Chatterjee ...for the petitioner

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

Opposite party is not represented.

This is an application under Section 24 of the code of Civil Procedure seeking transfer of the Matrimonial suit being no. 1518 of 2022 pending before the court of learned 3rd Fast Track Court, Barrackpore, North 24 parganas to the court of learned Additional District Judge, Serampore, Hooghly.

The petitioner contended that the marriage between the parties was solemnised on 19.11.2019 and the petitioner alleged that she was subjected to physical and mental torture and as such she was compelled to leave her matrimonial home on 4.6.2020 and since then she is residing at her paternal home. Since after several attempts of reconciliation did not yield any fruitful result, the petitioner herein was compelled to file a suit for dissolution of marriage against the opposite party herein, which is pending before the court of learned Additional District Judge, Serampore, Hooghly. Furthermore,

petitioner has initiated a proceeding under Section 125 of the Code of Criminal Procedure which is also pending in Serampore court.

All of a sudden, the husband/opposite party has instituted aforesaid suit for dissolution of same marriage subsisting between the same parties, which is now pending before the learned 3rd Fast Track Court, Barrackpore, North 24 parganas. The petitioner submits that since her suit is the earlier one between the same parties relating to dissolution of marriage, so her suit is required to be heard together with the present suit in the court at Serampore. Furthermore, the petitioner being an unemployed lady, is facing tremendous difficulty in attending the said suit at Barrackpore court which involves 42 kilometres journey in both ways from the petitioner's present residence at Uttarpara.

Having considered the facts and circumstances of the case and that the petitioner's suit is the earlier one and that both the suits between the same parties relates to dissolution of marriage and as such both the suits are required to be heard together in the court at Serampore to avoid conflict of judicial decisions and that the other proceeding initiated by the petitioner under Section 125 of the Code of Criminal Procedure is pending before the Serampore court where the opposite party would be required to attend, the prayer made by the petitioner is allowed.

Learned District Judge, North 24 parganas, at Barasat is hereby directed to withdraw the Matrimonial suit being no. 1518 of 2022 pending before the court of learned 3rd Fast Track Court, Barrackpore, North 24 parganas and to transmit the same to the court of learned District Judge, Hooghly at Chinsurah 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 1st Additional District Judge, Serampore, Hooghly where the petitioner's matrimonial suit being MAT suit no. 170 of 2022 is pending.

The transferee court is directed to hear analogously the present matrimonial suit, filed by the husband being MAT suit no. 1518 of 2022 along with petitioner's suit being Mat suit no. 170 of 2022, in order to avoid conflict of judicial decisions.

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, Hooghly at Chinsurah and learned District Judge, North 24 parganas at Barasat immediately.

Accordingly, C.O. 3551 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.)