

S/L 304
21.3.2023
Court No.652
SD

CO 3558 of 2022

Mita Bandyopadhyay nee Chakraborty
Vs.
Sudipta Kumar Bandyopadhyay

Mr. Debasis Kar

...for the Petitioner.

Mr. Saptarshi Roy

Mr. Siddhartha Roy

Ms. Kakali Das Chakraborty

...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.893 of 2022 from the Court of learned District Judge, Paschim Medinipur to the Court of learned Additional District Judge, Barrackpore.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on November 18, 2018. The petitioner alleged that she was driven out from her matrimonial home and she is presently residing at Noapara, Barrackpore. All of a sudden opposite party husband has filed aforesaid suit seeking dissolution of marriage, which is now pending before learned District judge, Paschim Medinipur.

Petitioner contended that the distance involves in between the court at Paschim Medinipur and the present place of residence of the petitioner is about 156 kms. and there is no direct route in between the two places. The petitioner further submits that she has got no source of income. She is facing lot of inconveniences in attending the

said proceeding at Paschim Medinipur. She further submits that three other proceedings initiated by her are pending in the Barrackpore Court where opposite party appeared and contesting. Accordingly, she has sought for aforesaid transfer. In support of her contention, petitioner has placed reliance upon the judgment reported in **AIR 2016 SC 718**.

Learned counsel appearing on behalf of the opposite party raised strong objection contending that the petitioner is now working as beautician and she has her own income and distance alone cannot be the determining factor while considering a prayer for transfer and there is no justification in allowing the aforesaid prayer for transfer only because the petitioner is a female. Relying upon judgment reported in **(2006) 9 SCC 197**, Opposite party contended that leniency to ladies shown by court in such transfer matters often misused and taken advantage of by women.

The opposite party further submits that he is the custodian of two daughters by his first wife and he is going to retire from service and accordingly, it would be hardship for the opposite party, if the aforesaid prayer for transfer is allowed.

It may be true that distance alone may not be decisive factor but it has its own role while considering the convenience of the parties, particularly, a wife and court should focus on the convenience rather than redressal or mitigating against convenience. Convenience itself is a vital factor to be reckoned while deciding a transfer petition. In this context reliance has been placed upon a decision of

Rajasthan High Court in the case of Smt. Payal Vs. Ranaram Veera.

Having considered the aforesaid facts and circumstances of the case and the submissions made by both the parties and also the balance of convenience and inconvenience of both the parties, geographic location and availability of public transportation, I find that if the aforesaid case is transferred to the court of Howrah neither party will face much difficulties in attending the said proceeding.

Accordingly, learned District Judge, Paschim Medinipur is hereby directed to withdraw the Matrimonial Suit No.893 of 2022 from the Court of learned District Judge, Paschim Medinipur and to transmit the case record to the Court of learned District Judge, Howrah within a period of three weeks from the date of communication of the order.

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.

As prayed by the parties, the transferee court is directed to make every endeavour for expeditious disposal of the suit and to conclude the entire proceeding of the suit preferably within a period of eight months from the date of communication of the order.

Department is directed to send a copy of this order to the learned District Judge, Paschim Medinipur as well as learned District Judge, Howrah immediately.

With these observations, C.O. 3558 of 2022 is disposed of.

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.)