

13.2.2023
158
Ct. no. 652
sb

C.O. 3656 of 2022

Rituparna Mondal
Vs.
Devdutta Ghosh

Mr. Debottam Das ...for the petitioner

Mr. Lakshmi Kanta Pal
Mr. Bandhubrata Bhula ...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 being no. 136 of 2022 pending before the court of learned Additional District Judge, Paschim Bardhaman, Asansol to the court of learned Additional District Judge, Baruipur.

The petitioner contended that the petitioner was married with the opposite party on 5.2.2018 according to the Hindu Rites and Customs. The parties thereafter went to Udaipur at Rajasthan which is the work place of the husband. The petitioner alleged that during her stay at her matrimonial home, relationship deteriorated day by day and the petitioner was even deprived of his basic necessities of life. The petitioner further alleged that on 4th September, 2022, the opposite party being provoked by his parents picked up a quarrel over trivial issue with

the petitioner and physically abused her with his fist, blows and kicks and drove the petitioner out of her matrimonial home. The petitioner also alleged that being helpless, leaving behind all her belongings, was compelled to fly back alone at that very night to her paternal house and since then she is residing therein. The petitioner further alleged that the opposite party/husband is an able-bodied person having several landed properties. The petitioner states that she has initiated a criminal proceeding under Section 498A of the Indian penal Code which is pending before the Baruipur court and she has also filed an application under Section 12 of the Protection of Women from Domestic Violence act seeking relief and the said case is also pending before the Baruipur court.

All of a sudden the opposite party has filed aforesaid suit for dissolution of marriage which is pending in the court of learned Additional District Judge, 1st Court, Paschim Bardhaman, Asansol. The petitioner further submits that the distance between her place of residence at Sonarpur and Asansol court is about 250 kilometres. The petitioner's father is aged about 70 years. The petitioner is dependent upon her father for financial and residential necessity. The petitioner further alleged that three other proceedings are pending before the Baruipur court including one proceeding under Section 125 of the Code of Criminal Procedure and considering

the inconveniences faced by the petitioner, the prayer made by the petitioner may be allowed.

Learned counsel for the opposite party raised objection and contended that the opposite party/husband is residing presently at Udaipur, Rajasthan. If the case is transferred to the court at Baruipur it will be hardship for the husband to attend the said proceeding coming from Rajasthan.

Having considered the facts and circumstances of the case and it is a suit for dissolution of marriage initiated by the opposite party/husband and as such convenience of petitioner/wife is of paramount consideration and that the opposite party/husband is a resident of Udaipur, Rajasthan and that in order to attend divorce proceeding, he is required to come all the way from Rajasthan and also considering the balance of convenience and inconvenience, I find that if the aforesaid suit is transferred to the court of learned District Judge, Alipore, neither party will have a cause to prejudice, in consideration of its geographic location and easy public transportation.

In view of above, learned District Judge, Paschim Bardhaman at Asansol is hereby directed to withdraw the Matrimonial suit being no. 136 of 2022 pending before the court of learned Additional District Judge, Paschim Bardhaman, Asansol and to transmit the same to the court of learned District Judge, Alipore, South 24

parganas within a period of three weeks from the date of communication of the order. Learned District Judge, Alipore shall either try the suit or will transfer the same in any competent court at Alipore for disposal.

The transferee court shall serve fresh notice upon both the parties intimating the next date of hearing before proceeding further with the aforesaid suit and learned transferee court will continue the proceeding at the stage where it reached till date.

The department is directed to send a copy of the order to the learned District Judge, South 24 parganas, Alipore and learned District Judge, Paschim Bardhaman, Asansol immediately.

Accordingly, C.O. 3656 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.)