

S/L 160
13.02.2023
Court No.652
SD

CO 3689 of 2022

Smt. Priyanka Samanta (Choudhury)
Vs.
Sri Pourush Choudhury

Mr. Jayanta Samanta
Ms. Karunamoyee Samanta

...for the Petitioner.

Affidavit of service filed by the petitioner in Court today be kept with the record.

In spite of service, opposite party is not represented.

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.2022 of 2022 from the Court of learned District Judge, Fast Track 4th Court, North 24 Parganas at Barasat to any competent Court of learned District Judge, South 24 Parganas, at Alipore.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on 17.02.2012 and the parties are blessed with a female child who was born on 21.5.2018. The petitioner alleged that being tortured by the opposite party both physically and mentally and also for the fear of dire consequences and further for demand of dowry, the petitioner was compelled to leave her matrimonial house on 15.8.2018 and thereafter, the petitioner lodged complaint at Behala Police Station under Section 498A along with other sections of the Indian Penal Code which is pending before the Alipore Court.

The petitioner also initiated proceeding under the provision of Protection of Women from Domestic Violence Act being AC No.1787 of 2021 which is also pending before the Alipore Court and another proceeding seeking maintenance under Section 125 of the Code of Criminal Procedure has also been initiated by the petitioner and pending before the Alipore Court.

All of a sudden, the opposite party filed the aforesaid suit for dissolution of marriage against the petitioner herein which is pending before the learned Additional District Judge, Fast Track 4th Court, Barasat.

The petitioner contended that the petitioner is the hapless wife and it is quite impossible for her to attend the court proceeding regularly by travelling 40 kms. from Behala to Barasat and she is also custodian of the minor child and as such, the petitioner has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and the distance involved between the two places and that the petitioner is custodian of a minor child and that three other proceedings are pending in the court at Alipore where the opposite party would be required to attend and that the aforesaid suit for dissolution of marriage has been filed by the opposite party/husband and as such, the convenience of the petitioner/wife must be looked at and that the inconveniences caused to the petitioner/wife in travelling to another place through public transportation for pursuing aforesaid matrimonial suit in the socio-economic situation prevailing in the country, is much more than

inconveniences that might be caused to the opposite party/husband and as such, comparative hardship is more to wife/petitioner, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, North 24 Parganas at Barasat is hereby directed to withdraw the Matrimonial Suit No.2022 of 2022 from the Court of learned District Judge, Fast Track 4th Court, Barasat and to transmit the case record to the Court of learned District Judge, South 24 Parganas at Alipore within a period of three weeks from the date of communication of the order. The learned District Judge, South 24 Parganas at Alipore will hear the case or he will transfer any other competent court at Alipore for trial.

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.

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

With these observations, C.O. 3689 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.)