

31.3.2023
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Ct. no. 652
sb

RVW 259 of 2022
With
CAN 1 of 2022
In
C.O. 366 of 2020

Arkabrati Singha(Neogi)
Vs.
Soujit Singha

Mr. Sirsanya Bandyopadhyay
Mr. Arka Kumar Nag
Ms. Deboleena Ghosh ...for the Petitioner

Mr. Tapash Kr. Bhattacharya
Mr. Aviroop Bhattacharya ...for the opposite party

This review application has been preferred in connection with the order passed by this court on 21.11.2022 in C.O. 366 of 2020. By the order, sought to be reviewed, this court directed to transfer the matrimonial suit no. 250 of 2019 pending before the learned District Judge, Jalpaiguri to the court of learned District Judge, Malda, after hearing the submissions on behalf of both the parties.

In this review application, the petitioner contended when the application under Section 24 of the Code of Civil Procedure was filed, the petitioner who is a judicial officer was posted in Kolkata and subsequently during pendency of the application she was transferred to the court of Krishnanagar, in the district of Nadia. She further submits when the said

application for transfer was filed, the younger son was staying with the husband / opposite party but, the said younger son is now staying with the petitioner/wife. Accordingly, she submits that she will have to face lot of difficulties if she will have to travel Malda court from Krishnanagar in order to conduct the said proceeding, as there is none to look after said younger son.

Learned counsel for the opposite party raised strong objection contending that considering the submissions, the balance of convenience and inconvenience of both the parties, this court was pleased to transfer the proceeding in a midpoint at Malda so that it cannot creat in convenience to either of the parties. He further submits since the petitioner is a judicial officer, she is supposed to get security personnel and as such she has no cogent ground for seeking aforesaid review.

In this context, the petitioner has relied upon the judgements, reported in (2009) SCC online Calcutta 1043 and (2000) 7 SCC 264 and the opposite party has relied upon the case laws, reported in (1997) 9 SCC 736 and AIR 2001 Patna 115.

Considering the submissions made by both the parties, it appears from record that while passing the order impugned this court taken note of convenience and inconvenience of both the parties and the order

was passed on the basis of submissions made by both the parties and the distance involved between the places namely court at Jalpaiguri and residence of both the parties was also taken care of and also the fact that the opposite party is a practicing advocate of Jalpaiguri court. The petitioner is now admittedly posted in the court of Krishnanagar, Nadia. No new ground seeking review has been placed except the contention that her younger son is now staying with him. It is true that since it is husband's suit seeking dissolution of marriage, wife's convenience is to be looked at but that does not mean that husband inconvenience would be beyond consideration. Moreover there is no error apparent on the fact of record and review application cannot be filed in the guise of appeal and as such I do not find any merit in the prayer made by the petitioner and, the prayer for review stands rejected.

Accordingly, RVW 259 of 2022 is dismissed.

Pending application, if any, stands 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.)