

S/L 166
13.02.2023
Court No.652
SD

CO 3845 of 2022

Annapurna Mishra Pathak @ Babita
Vs.
Dipankar Mishra

Mr. Rwitendra Banerjee

...for the Petitioner.

Mr. Rahul Singh

...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.64 of 2022 from the Court of learned Additional District Judge, Kandi, Murshidabad to the Court of learned District Judge, Purulia.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on January 17, 2020. After marriage both the parties started residing at Kotshila, Purulia.

The petitioner alleged that she was subjected to torture and she was constraint to lodge a complaint under Section 498A of the Indian Penal Code and the said case is pending before the learned Chief Judicial Magistrate, Purulia. Petitioner further alleged that she was driven out from her matrimonial home at Kotshila, Purulia where parties last resided as husband-wife.

Petitioner further submits that she is a destitute lady and dependent upon her mother who earns a meager family pension of Rs.8,000/- only. The petitioner accordingly initiated proceeding under Section 125 of the Code of

Criminal Procedure seeking maintenance and the said proceeding is pending before the court at Purulia.

The petitioner also asserts about taking steps for another proceeding under the provisions of Protection of Women from Domestic Violence Act to be initiated before the learned Magistrate at Purulia.

All of a sudden, the opposite party has instituted aforesaid suit for dissolution of marriage which is now pending before the court of learned Additional District Judge, Kandi, Murshidabad. The said court at Kandi situates at a distance of 216 kms. from her present place of residence and there is no direct communication from Purulia town to Kandi which is located far corner of Murshidabad. In fact, in order to reach Kandi the petitioner has to change number of buses and trains and the entire journey consumes almost entire day and it involves a daily expenditure of about Rs.600/-.

The petitioner further alleged that the opposite party has not paying any amount of maintenance and the domestic incident report would show that the opposite party and her in laws are residing at Kotshila, Purulia and as such, if the case is transferred to the Court at Purulia, the opposite party will have no cause to prejudice. In fact, in order to harass, the opposite party has initiated the aforesaid proceeding at Kandi, Murshidabad.

The petitioner further stated that she is eager to contest the said suit but due to aforesaid inconveniences she is not in a position to contest the same and filed the present

application seeking transfer with the help of legal aid services authority.

Learned counsel appearing on behalf of the opposite party raised objection contending that if the aforesaid prayer for transfer is allowed then the opposite party will face a lot of inconvenience in attending the said proceeding in the court at Purulia.

Having considered the aforesaid facts and circumstances of the case and that the distance involved in between the two places is about 216 kms. in one way and that three other proceedings initiated by the petitioner are pending before the court at Purulia where the opposite party would be required to attend and that the complaint as well as domestic incident report reveals that the opposite party is a resident of Purulia and that the petitioner is an unemployed lady, I find that the comparative hardship is more to the petitioner and in view of judicial pronouncements, where the husband has filed the suit for dissolution of marriage against wife, the convenience of the petitioner must be looked at and considering all these, the prayer for transfer made by the petitioner is allowed.

Accordingly, learned District Judge, Murshidabad at Behrampur is hereby directed to withdraw the Matrimonial Suit No.64 of 2022 from the Court of learned Additional District Judge, Kandi and to transmit the case record to the Court of learned District Judge, Purulia 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.

Department is directed to send a copy of this order to the learned District Judge, Murshidabad at Behrampur as well as the learned District Judge, Purulia immediately.

With these observations, C.O. 3845 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.)