

S/L 275
20.4.2023
Court No.652
SD

CO 3908 of 2022

Sutapa Biswas Paul
Vs.
Gopal Paul

Mr. Dhruba Mukherjee
Mr. Asraf Mondal
Mr. Ajit Kumar Barman

...for the Petitioner.

Ms. Asha G. Gutghutia
Ms. Bina Baidya
Ms. Paromita Sarkar
Ms. Sudipa Midya

...for the Opposite Party.

Affidavit-in-reply filed by the petitioner in court today
be kept with the record.

This is an application under Section 24 of the Code of
Civil Procedure seeking transfer of Matrimonial Suit No.383
of 2022 from the Court of learned District Judge, Nadia at
Krishnagar to the Court of learned District Judge, Paschim
Bardhaman at Asansol.

The petitioner contended that she was married with
the opposite party. The petitioner alleged that after the
marriage, repeated irritating behaviour and ill motive
attitude as raised on the petitioner from time to time created
unhealthy mental agony and mental disorder of the
petitioner and as a result, the petitioner was compelled to
leave her matrimonial house and started residing at her
parental house at Gopalpur, Asansol.

The petitioner further submits that the parties are
blessed with a male child who is aged about six years and
presently residing with the petitioner. She further submits

that all of a sudden, the opposite party/husband has instituted aforesaid suit seeking dissolution of marriage which is now pending in the court of learned District Judge, Nadia at Krishnagar.

She further submits that the court at Krishnagar situates at a distance of 223 kms. from her present place of residence. She has no male member in her family to accompany her except her old aged father. Furthermore, the petitioner is an unemployed lady and as such, she has initiated a proceeding under Section 125 of the Code of Criminal Procedure seeking maintenance which is now pending in the court at Asansol.

The petitioner submits that she is facing lot of inconveniences in attending the said proceeding at Asansol as she is not in a position to bear the burden of financial costs and furthermore, she has alleged that she may face dire consequences by the husband/opposite party who is allegedly very much influential person of that area if the prayer for transfer is not allowed. Accordingly, she has sought for aforesaid transfer.

Learned counsel appearing on behalf of the petitioner in this context relied upon case of ***Rajani Kishor Pardeshi vs. Kishor Babulal Pardeshi*** reported in ***(2005) 12 SCC 237*** and ***N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha*** reported in ***2022 SCC Online SC 1199***.

Learned counsel appearing on behalf of the opposite party submits that the opposite party is now posted as Driver

in the Eastern Railway and if the case is transferred at Asansol, he will face immense difficulty in attending the said court considering his nature of job.

He further submits that it is true that the court at Asansol is far away from Krishnagar and as such, if it is transferred in any mid point stationed court then neither party will have cause to prejudice. In this context, he has referred a decision of this court passed in CO 3594 of 2022.

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 the other proceeding under Section 125 of the Code of Criminal Procedure is pending in the Asansol Court where the opposite party would be required to attend and that this is husband's suit seeking dissolution of marriage and for which convenience of the petitioner must be looked at and that the inconveniences caused to a woman in travelling to another place for pursuing her matrimonial suit through public transportation in the socio-economic situation prevailing in the country, is much more than the inconveniences that might be caused to the husband/opposite party, and that the scheme of our constitution provides for guaranteeing special provision for women and children and access for justice to all, the prayer for transfer is allowed.

Accordingly, learned District Judge, Nadia at Krishnagar is hereby directed to withdraw the Matrimonial Suit No.383 of 2022 from the Court of learned District Judge, Nadia at Krishnagar and to transmit the case record

to the Court of learned District Judge, Paschim Bardhaman at Asansol 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.

The opposite party will be at liberty to prayer for consolidation of dates before the court below.

Department is directed to send a copy of this order to the learned District Judge, Paschim Bardhaman at Asansol as well as learned District Judge, Nadia at Krishnagar immediately.

With these observations, C.O. 3908 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.)