

23.3.2023
289
Ct. no. 652
sb

C.O. 3920 of 2022

**Sunanda Dey
Vs.
Debabrata Das**

Mr. Prantick Ghosh
Mr. Prasad Bhattacharya ...for the petitioner

Affidavit of service filed by the petitioner is taken on record. In spite of service, opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of the Matrimonial suit no. 114 of 2022 presently pending before the court of learned Additional District Judge, Gangarampur at Buniadpur to the court of learned District Judge, Paschim Midnapore.

The petitioner contended that the petitioner was married with the opposite party on 1.3.2021 according to Hindu Rites and Customs but she was driven out from her matrimonial home after assaulting her physically, on 20.7.2021 and since then she is residing at Belda, Paschim Midnapore. The petitioner further submits that she is an unemployed lady and she has initiated a proceeding under Section 125 of the Code of Criminal Procedure seeking maintenance which is pending in the court of learned Judicial Magistrate, Paschim Midnapore.

She has also initiated criminal proceeding under Section 498A/406/323/506 of the Indian Penal Code which is pending in the court of learned Magistrate Danton, Paschim Medinipur. She further stated that as a counter blast, the opposite party has filed aforesaid suit for dissolution of marriage against the petitioner which is now pending in the court of learned Additional District Judge, Gangarampur at Buniadpur, Dakshin Dinajpur. She further submits that the court at Buniadpur situates at a distance of about 950 kilometres both ways from her present place of residence. She is facing lot of difficulties in attending the said proceeding at Buniadpur though she is eager to contest the said suit. Accordingly, the petitioner has prayed for aforesaid transfer.

During the course of hearing, learned counsel for the petitioner further submits that the opposite party/husband is an employee of Defence Post Guard, now posted at Bakkhali. Considering the balance of convenience and inconvenience of both the parties, in terms of geographic location and availability of public transportation in the concerned area, learned counsel appearing for the petitioner suggested if the proceeding is transferred to the court of learned District Judge, Alipore, then neither party will face much difficulty in attending the said proceeding.

In view of the aforesaid facts and circumstances of the case the suggestion given by the learned counsel for the petitioner is accepted.

In view of above, learned District Judge, Dakshin Dinajpur at Balurghat is hereby directed to withdraw the Matrimonial suit no. 114 of 2022 presently pending before the court of learned Additional District Judge, Gangarampur at Buniadpur and to transmit the same to the court of learned District Judge, Alipore within a period of three weeks from the date of communication of the order.

Learned District Judge, South 24 parganas, Alipore will hear the suit or he will be at liberty to transfer the suit to any other court at Alipore having jurisdiction to try the suit.

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 will proceed from the stage where it reached till date.

Since no affidavit-in-opposition has been sought for from the opposite party, the allegations levelled against the husband/opposite party in the application, deemed to have not admitted by the opposite party.

The department is directed to send a copy of the order to the learned District Judge, Dakshin Dinajpur at Balurghat and learned District Judge, South 24 parganas at Alipore immediately.

Accordingly, C.O. 3920 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.)