

22.2.2023
178
Ct. no. 652
sb

**RVW 266 of 2022
In
CO 2343 of 2022
With
CAN 1 of 2022**

**Sri Abhijit Ghosh
Vs.
Smt. Sumana Chakraborty**

Mr. Partha Sarathi Bhattacharya
Mr. Saikat Chatterjee
Mr. Raju Bhattacharya ...for the Petitioner

Mr. Tanmoy Mukherjee
Mr. Sagnik Chatterjee
Ms. Madhumita Roy Chowdhury
...for the opposite party

Re: CAN 1 of 2022

This is an application for recalling the order dated 11.11.2022 passed by this court in C.O. 2343 of 2022. By the impugned order, this court was pleased to dispose of the revisional application being C.O. 2343 of 2022 and thereby allowed the petitioner's prayer for transferring matrimonial suit being no. 319 of 2018 presently pending before the learned Additional District Judge, 4th Court, Malda to the court of learned District Judge, North 24 parganas, Barasat.

In this application, learned counsel for the petitioner submits that said prayer for transfer in the said application has been sought for only on the ground of

distance. He further submits that Section 24 of the Code of Civil Procedure does not speak about any gender discrimination. However, from the impugned order it appears that the said order was passed based on gender discrimination and the inconvenience of the petitioner/wife was given preference over the inconvenience that might be caused to the husband. According to him, such gender discrimination is not permissible in law and accordingly prayed for recalling the said order.

Learned counsel for the opposite party submits that Order 47 rule 1 does not permit such ground to be taken in a review application and furthermore, it is the court's discretion which has been exercised while passing the said order and as such said order does not call for any interference.

Considered the submissions made by both the parties. It is settled law in view of series of judicial pronouncement that, when it is the husband's suit against the wife, it is the wife's convenience that, therefore, must be looked at. [Reliance placed in (2001) 10 SCC 41, AIR 2002 SC 396, 2016(4) CHN (Cal) 80, AIR 2020 SC 4548, 2022 Live Law (SC) 627]. Accordingly, I find nothing wrong in the observation made in the said order and also there is no substance in the submission for recalling the order impugned.

Accordingly, CAN 1 of 2022 is dismissed.

However, as prayed by learned counsel for the opposite party/husband, the trial court is directed to make every endeavour for expeditious disposal of the suit and to make best attempt to conclude the entire proceeding of the suit preferably within a period of one year from the date of communication of this order.

(Ajoy Kumar Mukherjee, J.)