

11.04.2023

CO 3987 of 2022

**Laboni Roy @ Chowdhury
Vs.
Sabyasachi Roy**

Mr. Malay Bhattacharyya
Mr. Subhrajit Ghosh

... .. for the petitioner

Affidavit of service filed by the petitioner is taken on record. Opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Matrimonial Suit No. 121 of 2021 presently pending before the Court of Additional District Judge at Baruipur to any competent Court in the District of Bankura.

The petitioner contended that the marriage between the parties was solemnized on 19th November, 2019. The petitioner alleged that the opposite party and his family members used to inflict torture both physically and mentally and ultimately the opposite party and his family members had driven the petitioner from her matrimonial home on 20th March, 2020 and since then she is residing at her paternal house in the district of Bankura.

All of a sudden the opposite party has instituted the aforesaid suit for restitution of conjugal rights which is now pending in the Court of learned Additional District Judge at Baruipur.

The petitioner submits that she has initiated a proceeding seeking dissolution of marriage which is

pending in the Court of learned District Judge, Bankura being MAT No. 354 of 2022 and in order to avoid conflict of judicial decisions the present suit should be heard along with the petitioner's suit for dissolution of marriage by the same Court. She further submits that her another proceeding under Section 12 of the Protection of Women from Domestic Violence Act is also pending in the Court at Bankura.

In this context she further contended that she is facing lot of inconveniences as Court at Baruipur situates at a distance of 170 kilometers from her present place of residence and it takes about six hours to reach Baruipur Court by Bus from Bankura. Accordingly, she has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and also the distance involved between two places and that petitioner's application under Section 12 of the Protection of Women from Domestic Violence Act is pending before the Court at Bankura and as such the opposite party would be required to attend said Court and that in order to avoid conflict of judicial decisions the present suit for restitution of conjugal rights required to be heard along with the petitioner's suit for dissolution of marriage which is pending at Bankura, the prayer made by the petitioner is allowed.

Learned District Judge, South 24-Parganas at Alipore is hereby directed to withdraw the Matrimonial Suit No. 121 of 2021 presently pending in the Court of learned Additional District Judge at Baruipur and to transmit the same to the Court of learned District Judge at Bankura within a period of three weeks from the date of communication of the order. The transferee Court shall make analogous hearing of present suit with petitioner's suit being Mat Suit No.354 of 2022.

The transferee Court shall proceed with the suits where it reached till date and before proceeding further Court will issue fresh notice upon both the parties intimating the next date of hearing.

Let a copy of this order be sent to the learned Additional District Judge at Baruipur and learned Additional District Judge at Bankura, immediately.

Accordingly, C.O. 3987 of 2022 is disposed of.

(Ajoy Kumar Mukherjee, J.)