

S/L 171
13.02.2023
Court No.652
SD

CO 4001 of 2022

Suchita Debnath (Das)
Vs.
Kamal Debnath

Mr. Sujoy Sarkar
Mr. Rahul Chachan

...for the Petitioner.

Affidavit of service filed by the petitioner in Court today be kept with the record.

In spite of service, opposite party is not represented.

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.82 of 2021 from the Court of learned Additional District Judge, Nabadwip, Nadia to the Court of learned District Judge, Birbhum at Suri.

The petitioner contended that petitioner was married with the opposite party on 13.12.2017. The petitioner alleged that the opposite party and his family members used to ask for bringing more money from her father and when she failed to meet their demand, she was assaulted. Ultimately, the opposite party and his family members had driven out the petitioner from their house and petitioner has taken shelter at her father's house.

The petitioner submits that she has initiated proceeding under the provisions of Protection of Women from Domestic Violence Act which is pending before the learned Magistrate, Suri, Birbhum and the opposite party is contesting the same.

All of a sudden, the opposite party has filed the aforesaid suit for dissolution of marriage which is now pending before the learned Additional District Judge, Nabadwip, Nadia. The distance in between the petitioner's present place of residence and the court at Nabadwip, Nadia is about 126 kms. and journey involves lot of expenditure. The petitioner being an unemployed lady is facing lot of difficulties in attending the said proceeding at Nabadwip, Nadia. Accordingly, she has sought for aforesaid transfer.

Having considered the aforesaid facts and circumstances of the case and also considering the distance involved between the two places and that the petitioner is an unemployed lady and that the petitioner has already initiated proceeding under the provisions of Protection of Women from Domestic Violence Act, which is pending before the Suri Court at Birbhum, where the opposite party would be required to attend and that in such cases where the husband/opposite party has instituted a suit for dissolution of marriage, the convenience of the petitioner must be look at and also considering the inconveniences likely to be faced by the petitioner in travelling to another place for pursuing her matrimonial suit through public transportation in the socio-economic situation prevailing in country which is much more than the inconveniences that might be caused to the husband/opposite party and in the absence of any opposition on the part of husband against petitioner's contentions, I find that comparative hardship is more to the

petitioner and as such, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Nadia at Krishnagar is hereby directed to withdraw the Matrimonial Suit No.82 of 2021 from the Court of learned Additional District Judge, Nabadwip, Nadia and to transmit the case record to the Court of learned District Judge, Birbhum at Suri 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, Birbhum at Suri as well as the learned District Judge, Nadia at Nabadwip immediately.

With these observations, C.O. 4001 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.)