

S/L 217
19.01.2023
Court No.652
SD

CO 1438 of 2020

Trisha Chakraborty (Dubey)
Vs.
Sri Avishek Dubey

Mr. D.N. Chatterjee
Mr. Madhusudan Mandal

... for the Petitioner.

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

The 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.109 of 2020 pending before the Court of learned District Judge, Paschim Bardhaman at Asansol to the Court of learned Additional District Judge, Raghunathpur, Purulia.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on may 31, 2016. They are blessed with a female child and the said female child is presently residing with the petitioner.

The petitioner further alleged that due to some unwanted incident that took place in her matrimonial house, she was compelled to leave her matrimonial house and she further alleged that as the opposite party was tried to kill her she lodged complaint before Hirapur Police Station and the

said case is pending at Asansol Court. Since the petitioner has become victim of domestic violence, she filed an application under Section 12(3) of the Protection of Women from Domestic Violence Act, which is now pending before the Raghunathpur Court being Misc. Case No.78 of 2019.

Petitioner further submits, as a counter blast opposite party/ husband has initiated aforesaid suit for dissolution of marriage, which is now pending at Asansol court.

The distance involved between the petitioner's present place of residence and the court at Asansol is about 110 kms. Due to long distance the petitioner could not appear at the time of hearing as she has no other persons in her family to accompany her in the day-to-day hearing in the Asansol Court. Accordingly, she has sought for aforesaid transfer.

Having considered the aforesaid facts and circumstances of the case and also the distance involved between the two places and that the petitioner is the custodian of a minor child and that the other proceeding initiated by the petitioner under Protection of Women from Domestic Violence Act is pending before the Raghunathpur Court, where the opposite party would be required to attend and that in such cases where the husband has filed a suit for dissolution of marriage, the convenience of the petitioner is of paramount importance and that the inconvenience caused to a female in travelling another place along with her minor child through public transportation in order to pursue the

matrimonial suit, in the socio-economic situation prevailing in country, is much more than inconvenience caused to the husband/opposite party, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Paschim Bardhaman at Asansol is hereby directed to withdraw the Matrimonial Suit No.109 of 2020 presently pending before the Court of learned District Judge, at Asansol and to transmit the case record to the Court of learned District Judge, Purulia for disposal within a period of three weeks from the date of communication of the order, who in turn will transfer the same to the court of learned Additional District Judge at Raghunathpur, having jurisdiction to try the suit, within a period of three weeks thereafter.

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 serve a copy of this order to the learned District Judge, Purulia as well as the learned District Judge, Paschim Bardhaman at Asansol.

With these observations, C.O. 1438 of 2020 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.)