

AD-01
Ct No.01
Jalpaiguri
10.02.2023
TN

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CO 4 of 2023

Smt. Neha Pradhan
Vs.
Sri Anup Pradhan

Ms. Sidhi Sethia,
Ms. Rima Sarkar

....for the petitioner

Despite service, none appears for the opposite party-husband at the time of call.

Affidavit-of-service filed in court today be kept on record.

The case of the petitioner-wife for transfer is that she has filed a domestic violence proceeding which is at present pending for adjudication in Siliguri. The husband-opposite party has been appearing in the same. It is further alleged that the opposite party-husband admitted in his written objection filed in the proceeding under the Domestic Violence Act that the parties started residing at a rented house at Kawakhali, Siliguri which was the place of duty of the opposite party-husband. It is, thus, submitted that in the event the petitioner-wife has to go to contest the suit filed by the husband at Jalpaiguri, it will be

extremely difficult for her; more so, since she is suffering from a right elbow deformity which may require surgery.

That apart, the physical distance between Siliguri and Jalpaiguri is about 75 kilometers and the petitioner has already sought for maintenance from the husband. On the ground of financial constraint as well, it will be extremely difficult for the petitioner to contest the suit of the husband at Jalpaiguri.

Heard learned counsel for the petitioner. It transpires from paragraph no. 18 of the written objection filed by the opposite party-husband in connection with Miscellaneous Case No. 26 of 2020, pending in the Third Court of Judicial Magistrate, at Siliguri, that the husband appeared in the said proceeding and specifically admitted that at the relevant point of time his duty place was at Kawakhali, which is within Siliguri.

It is seen from the affidavit of the said written objection that the verification was done on September 05, 2022, which is pretty recent. As such, a reasonable presumption arises as to the husband having his workplace at present at Kawakhali, Siliguri.

That apart, since the husband has already appeared in the domestic violence proceeding

initiated by the petitioner-wife at Siliguri, it would not be so difficult for the husband, vis-à-vis the wife if she has to go to Jalpaiguri, to carry the prosecution of his suit in Siliguri, where the domestic violence proceeding is also pending.

In such view of the matter, CO 4 of 2023 is allowed, thereby directing transfer of Matrimonial Suit No. 229 of 2019 pending in the Third Court of Additional District Judge at Jalpaiguri, to the First Court of Additional District Judge at Siliguri for being heard from its present stage.

The Additional District Judge, Third Court at Jalpaiguri shall ensure that the records of the suit are transferred to the transferee court, that is, the First Court of Additional District Judge at Siliguri expeditiously.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)