

1.09.2023
SL No.63
Court No.3

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

CO 55 of 2023

Sonali Saha-vs-Uttam Kumar Saha

Mr. Debrshi Dhar
...for the petitioner.

Mr. Aditya Seal
...for the O.P.

Heard Mr. Dhar, learned counsel for the
petitioner and

Mr. Seal, learned counsel representing the
opposite party.

This is an application under Section 24 of the
Code of Civil Procedure filed by Smt. Sonali Saha who
is the respondent in Matrimonial Suit No. 72 of 2020
under Section 9 of the Hindu Marriage Act, 1955.

It is submitted by Mr. Dhar that the petitioner is
facing inconvenience in attending the court at Siliguri
travelling all the way from Barobisa to Alipurduar.
Therefore, the petitioner is seeking withdrawal of the
suit from the file of learned District Judge, Siliguri to
the learned court having jurisdiction to decide the
marital dispute at Alipurduar.

It is submitted by Mr. Seal that the husband has
to take care of the two children as the petitioner
deserted their children. Therefore, it would be equally

inconvenient for the opposite party to move to Alipurduar leaving the two children in the house.

Considering the facts and circumstances of the case and in the interest of the children I am not inclined to withdraw the suit as prayed for.

Since distance and expenses to attend court is an issue canvassed by the petitioner, the opposite party/husband is directed to pay a sum of Rs. 1,000/- to the petitioner for her attending the proceeding before the learned Additional District Judge, Siliguri on her every appearance. If the opposite party/husband fails to make such payment the learned Additional District Judge, Siliguri shall be at liberty to dismiss the suit. The learned Trial Court is requested to invoke the provision as laid down under Order XXXIIA of the Code of Civil Procedure, 1908, since it is a family dispute.

This payment shall have no nexus to the alimony pendene lite, if is allowed in favour of the wife, the petitioner herein.

(Siddhartha Roy Chowdhury,J)