

19.11.2024
Item No.
A 39
Saswata

C.O. 734 of 2024

**Sarajit Roy
versus
Sima Ganguly @ Sima Ganguly Roy**

Mr. Dilip Kumar Sadhu

...For the husband / petitioner

1. The present revisional application is directed against the order no. 15 dated 24th March 2023 passed by the learned Additional District Judge, 1st Court, in-Charge, Paschim Medinipur, whereby the application raising the issue of territorial jurisdiction of the learned Court to entertain the same was rejected.

2. In brief the facts of this case are that the petitioner is the defendant in an application filed for dissolution of marriage by a decree of divorce under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as the "said Act") filed by the wife/opposite party. The application filed under Section 13 of the said Act demonstrates that both the parties to the suit were married on 27th November 2009 as per Hindu rites and customs. After the marriage was solemnized, the plaintiff/opposite party started residing with her husband / petitioner at her matrimonial home, as husband and wife and out of the aforesaid marriage gave birth to a female child on 19th November 2013.

3. The plaintiff/opposite party in the application filed under Section 13 of the said Act has claimed that her husband, the petitioner was addicted to alcohol and is a habitual drinker. She further stated that the petitioner was also a gambler and for reasons as aforesaid, had been pressurizing her to bring money from her paternal home. Allegations that the petitioner is having illegal affairs with other women also surface from the above application under Section 13 of the said Act. The opposite party also claimed that the petitioner had been torturing her. In

paragraph 25 of the aforesaid petition it has been claimed that the plaintiff/opposite party has returned back to her mother at Mahatabpur under Kotwali Police Station, Paschim Medinipur.

4. Mr. Sadhu learned advocate appearing for the petitioner would, however, submit that the aforesaid allegations are false. The petitioner is contesting the suit by filing written statement. Since, according to the petitioner the opposite party at the time of marriage was residing at her matrimonial home, the Courts at Lalgarh, Jhargram, Paschim Medinipur have the exclusive jurisdiction to try and determine the suit. According to the petitioner at the time of presentation of the petition under Section 13 of the said Act, the opposite party had been residing at Jhargram. Having regard thereto, an application in the nature of Order VII Rule 10 of the Code of Civil Procedure (hereinafter referred to as the "Code") was filed.

5. It appears that by the order impugned the Learned Judge by proceeding on the premise that the Statute conferred a right on the opposite party to institute the suit where she resides, on the basis of the statements made in the application filed under Section 13 of the said Act, has held that the Learned Court of District Judge, Paschim Medinipur did not lack territorial jurisdiction and as such, had dismissed the application filed by the petitioner. Assailing such order, Mr. Sadhu, learned advocate appearing for the husband / petitioner submits that the Learned Judge had failed to exercise the jurisdiction vested in him in not returning the application for refilling before appropriate Court at Jhargram and/or in not transferring the same thereat. He submits that from the statements made in the written statement, it would be apparent and clear that the plaintiff/opposite party is a resident of Jhargram. Having regard thereto, there is no justification for the Learned Judge to disregard the same.

6. Having heard the learned advocate appearing for the petitioner and having scrutinized the application under Section

13 of the said Act, I find that in the cause title itself, the opposite party has identified her address as Mahatabpur, Ward No. 20, Post Office – Midnapore, Police Station – Kotwali, District – Paschim Medinipur, Pin – 721101. In paragraph 21 thereof, it is stated that the opposite party took shelter in her paternal home on 9th May 2013 and thereafter, she shifted to at Mahatabpur under Kotwali Police Station, Paschim Medinipur and started residing there.

7. Although, the petitioner contends that the aforesaid statement is incorrect and insists the Learned Court to take a decision on the petition purportedly filed under Order VII Rule 10 of the Code based on the statements made in the written statement and the said petition, I am of the view that in an application of this nature the applicant is bound to accept the statements made in the plaint and in this case in the application under Section 13 of the said Act, as true and correct and the Court has to proceed thereon.

8. Admittedly, Section 19 of the said Act confers a right on the opposite party to present the petition under the said Act to the District Court within the local limits of whose ordinary original civil jurisdiction, in case the petitioner is a wife, resides on the date of presentation of the petition.

9. Having regard to the above, I find no irregularity far less any jurisdictional error in the order impugned. As such no interference is called for by this Court and the instant Civil Revisional application being C.O. 734 of 2024 is accordingly dismissed without any order as to costs.

10. All parties shall act on the basis of the server copy of the order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)