

16.05.2024
Item No.9
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IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Appellate Side

CO/160/2023

SMT. PUJA DAS (PAUL) @ PUJA PAUL DAS
VS
SRI AVAY DAS

Mr. Anirban Banerjee, Adv.,
Mr. Samir Das, Adv.
..for the petitioner.

Affidavit of service filed in Court today is taken on record. It appears from the affidavit of service that the opposite party has been duly served. However, the opposite party remains unrepresented. The matter had previously appeared before the Circuit Bench from time to time and lastly on 30th April, 2024 but had to adjourn for completing the service.

Taking note of all these facts and that the application is for transfer of the suit, the application is taken up for hearing in the absence of the opposite party.

This is an application under Section 24 of the Code of Civil Procedure, 1908 (in short CPC) for transfer of the Matrimonial suit being No.125(4) of 2023 presently pending before the learned Additional District Judge, 1st Court at Siliguri to the Court of

the learned District Judge at Jalpaiguri for being placed before the jurisdictional Judicial Officer for due adjudication, if necessary.

It is apparent from the statement made in the plaint filed by the opposite party/husband that the marriage was solemnized on 13th December, 2016 between the petitioner and the opposite party at the residence of the petitioner's father at Sarada Pally, Ward No.7 of Dhupguri Municipality, Post Office – Bairatiguri, Police Station – Dhupguri, District – Jalpaiguri. The social reception was organized on 15th December, 2016 at the house of the opposite party at Hospital Para, Ward No.8 of Dhupguri Municipality, Post Office – Bairatiguri, Police Station – Dhupguri, District – Jalpaiguri. It is also the case of the opposite party that they resided as husband and wife at Jalpaiguri. Going by such statement, the District Court at Jalpaiguri is the competent Court to receive, try and determine the suit.

The petitioner as appears from the cause title of the petition presently resides with her minor son born out of the wedlock between the petitioner and the opposite party at the petitioner's parental house at Dhupguri. It appears that the suit was filed at Siliguri under the District Judgeship of Darjeeling because the opposite party was working at Siliguri at

the relevant point of time and was staying at a rented accommodation thereat.

The petitioner has cited three important grounds for the transfer. The first one is that the Siliguri Court never had the jurisdiction to receive, try and determine the suit. In any event, the suit could not have been filed before the Siliguri Court and the Courts at Jalpaiguri were the appropriate fora. Police complaints have been lodged by the petitioner at Jalpaiguri. The investigation whereof is going on thereby requiring the presence of the petitioner at Jalpaiguri. Secondly, it is inconvenient for the petitioner to travel to Siliguri from Jalpaiguri keeping her minor child at home to defend the proceedings. Thirdly, the petitioner also apprehends unpleasant situation that may be created by the husband who stays at Siliguri at the time when the petitioner is required to go to Siliguri for the purpose of the litigation.

Considering all these grounds, I direct transfer of Matrimonial Suit No. 125(4) of 2023 pending before the learned Additional District Judge, 1st Court at Siliguri to the Court of the learned District Judge at Jalpaiguri. The registry of the Additional District Judge at Siliguri is directed to send all papers in connection with the Matrimonial Suit No. 125(4) of 2023 to the office of the learned District

Judge at Jalpaiguri. The next date of the suit is fixed on 19th July, 2024 before the Court of the learned District Judge at Jalpaiguri.

The parties and the office of the learned District Judge at Jalpaiguri as also the office of the learned Additional District Judge at Siliguri shall act on the basis of the server copy of this order without insisting upon production of a certified copy thereof.

The registry of this Circuit Bench is directed to communicate a copy of this order to the office of the learned District Judge at Jalpaiguri as also to the office of the learned Additional District Judge at Siliguri.

Nothing further remains to be adjudicated in this application.

The revisional application, being C. O. 160 of 2023 is, accordingly, disposed of.

(ARINDAM MUKHERJEE, J.)