

11.06.2025
Item No.34

Court No. 652
sg

C.O. 151 of 2025

Ruby Das
Vs.
Prasanta Das

Mr. Shibaji Kr. Das
Ms. Deblina De
.... for the petitioner.

Mr. Niladri Sekhar Ghosh
.... for the opposite party.

Affidavit of service filed by the petitioner is taken on record.

Learned counsel for the respondent has taken an objection only to the extent that the petitioner can also travel to Arambagh, District Hooghly to attend the proceedings. Learned counsel submits that there is no law that in such cases only the suit has to be transferred at the asking of the petitioner/wife. Learned counsel submits that the matter may be transferred to some Court which is equip distance from Arambagh to Alipore.

Learned counsel for the respondent/opposite party has submitted that the present proceedings are only for restitution of conjugal rights and is likely to be concluded two or three days.

Learned counsel for the petitioner submits that opposite party/husband in any case, come to the Alipore to attend the maintenance proceedings filed by the petitioner/wife.

There is no dispute to the proposition that the matrimonial proceedings cannot to be transferred at the mere asking of the petitioner/wife. The settled proposition is that in such proceedings if the pendency of the matrimonial proceedings are causing any prejudice or burden to the petitioner/wife then such proceedings will be transferred. The request for transfer can be denied if such request is prompted by any mala fide or perversity. In the present case the respondent/husband has not been able to make out any case of perversity or mala fide. It is not disputed that another maintenance proceedings pending between the parties are pending at Alipore.

Taking into account the entire facts and circumstances Matrimonial Suit No. 319 of 2023 for restitution of conjugal rights under Section 22 of the Special Marriage Act, 1954 is withdrawn from the Court of Additional District Sessions Judge, 1st Court, Arambagh and assign to the Court of learned District Judge, South 24-

parganas, Alipore for conducting trial itself or assigning to the Court of competent jurisdiction.

The transferor Court is directed to send the entire records to the transferee Court.

Accordingly, petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(Dinesh Kumar Sharma, J.)