

15.01.2025
Item No.
AD 2
Saswata

C.O. 1196 of 2024
CAN 1 of 2024

Debakshmi Halder
versus
Prosenjit Halder

Mr. Sudipta Kumar Bose
Mr. Aniruddha Bandyopadhyay

...For the petitioner

Mr. Sounak Bhattacharya
Mr. Sounak Mandal
Mr. Anirban Saha

...For the opposite party

1. By consent of the parties, today the matter is taken up for final hearing.
2. This is an application under Section 24 of the Code of Civil Procedure, 1908 (hereinafter referred to as the “Code”) filed by the petitioner for transfer of Matrimonial suit no. 764 of 2023 filed by the husband/opposite party which is at present pending before the Court of the Learned Additional District & Sessions Judge, Ranaghat, Nadia to the Court of the Learned District Judge at Alipore, South 24 Parganas under whose jurisdiction the petitioner is presently residing or at Sealdah, as the Court may deem fit.
3. Mr. Bose, learned advocate appearing on behalf of the petitioner would submit that the case has a checkered history. Previously, the husband/opposite party had instituted a matrimonial suit being no. 46 of 2020 under Section 27 of the Special Marriage Act, 1954 (hereinafter referred to as the “said Act”) before the Court of Learned Additional District & Sessions Judge at Ranaghat, Nadia despite being aware of the fact that the petitioner is residing at her parents’ house at Behala, South 24 Parganas. Since, the petitioner was facing immense hardship in travelling all the way from Behala to Ranaghat in order to attend Court proceedings before the Court of the Learned Additional District & Sessions Judge at Ranaghat, the petitioner

was compelled to file an application under Section 24 of the Code which was registered as C.O. no. 2006 of 2021. Such proceeding was contested by the husband/opposite party when it was, inter alia, contended that the husband / opposite party is an Assistant Manager of a nationalized bank, namely, Canara Bank at Krishnagore Branch and the minor daughter is also residing with him whose care is being taken by the husband / opposite party. It was also contended that that the husband/opposite party is willing to pay the conveyance charges to the wife for attending Court proceedings at Ranaghat.

4. A Coordinate Bench of this Court, by an order dated 17th January 2022 by taking note of the rival contentions of the parties and the balance of convenience, by noting that the petitioner is residing at her parental house at Flat no. 07, Sandhyadeep Apartment, 42/13, Maharani Indira Devi Road, Behala, Police Station- Parnasree, District – South 24 Parganas, Kolkata – 700060 and that the petitioner in order to attend the Court proceedings, would be required to travel from Behala to Ranaghat and is otherwise emotionally unstable and suffering from personality disorder (borderline type), was pleased to allow the said petition, thereby directing the matrimonial suit being MAT suit no. 46 of 2020 pending before the Court of the Learned Additional District & Sessions Judge at Ranaghat, Nadia to be withdrawn and transferred to the Court of the Learned Additional District Judge, Sealdah, South 24 Parganas for trial and disposal.

5. Mr. Bose further submits that after the aforesaid suit was transferred and on being re-numbered as MAT suit no. 147 of 2022, though an interlocutory application was heard out, however, before the trial commenced the husband/opposite party did not take steps in the suit and the same was dismissed for default vide order no. 17 dated 11th September 2023 by the Learned Additional District Judge, 1st Court at Sealdah, South

24 Parganas. Interestingly, little did the petitioner know at that stage that the husband / opposite party would once again proceed to institute a fresh suit under Section 27 of the said Act for divorce before the Court of Learned Additional District Judge at Ranaghat, Nadia. Such suit has been registered as MAT Suit no. 764 of 2023. It is submitted that the petitioner in order to overreach the directions issued by the Hon'ble High Court at Calcutta in C.O. 2006 of 2021 has adopted this novel procedure. The petitioner upon being served with the plaint, has been contesting the suit by filing written statement and has taken out the instant revisional application for transfer.

6. By order dated 9th May 2024, a Coordinate Bench of this Court while entertaining the aforesaid revisional application has stayed all further proceedings in MAT suit no. 764 of 2023 pending before the Learned Additional District Judge, Ranaghat, Nadia. The matter has since come up under the heading "*Extension of interim order*". On 8th January 2025 this Court while accommodating the husband/opposite party adjourned the matter for him to take appropriate instructions.

7. Today, both the parties are represented.

8. Mr. Bose submits that there is no change in circumstances for the husband/opposite party to have approached the Learned Additional District Judge, Ranaghat, Nadia.

9. Mr. Bhattacharya, learned advocate appearing for the husband/opposite party by reiterating his stand which was noted down in the order dated 17th January 2022 would submit that it is not only the convenience of the wife but also that of the husband which is required to be considered. He would once again reiterate that the husband/opposite party is looking after the daughter and as such no order of transfer should be passed.

10. Having heard the learned advocates appearing for the respective parties and noting the materials on record, I find that

admittedly in this case by an order passed by the Coordinate Bench of this Court on 17th January 2022, the matrimonial suit filed by the husband / opposite party was withdrawn and transferred to the Court of the Learned Additional District Judge, Sealdah for trial and disposal. Since then, the suit was re-numbered and although the husband / opposite party had participated in the said proceedings, later he did not proceed further in the matter which resulted in dismissal of the matrimonial suit vide order dated 11th September 2023.

11. Records would reveal that within a month thereafter, on 10th October 2023 the husband / opposite party filed a matrimonial suit under Section 27 of the said Act before the Learned Additional District & Sessions Judge at Ranaghat, Nadia which was registered as MAT suit no. 764 of 2023. The opposite party has not been able to demonstrate that there is any subsequent event for the opposite party to file a fresh suit for dissolution of the marriage before the Court of the Learned Additional District & Sessions Judge, Ranaghat.

12. The aforesaid approach of filing a fresh suit before the Court of the learned District & Sessions Judge at Ranaghat is a clear attempt on the part of the husband / opposite party to overreach the direction passed by this Court. The stand taken by the husband / opposite party through his advocate in this Court today appears to be reiteration of the stand which is noted down in the order dated 17th January 2022. There is no change in circumstances for the opposite party to file the fresh matrimonial suit under Section 27 of the said Act before the learned Additional District & Sessions Judge at Ranaghat.

13. Having regard thereto, I am of the view that there is no alternative but to withdraw the instant MAT suit no. 764 of 2023 from the Court of the Learned Additional District & Sessions Judge, Ranaghat and transfer it to the Court of

Learned Additional District Judge, Sealdah for trial and disposal.

14. Considering the conduct of the husband / opposite party, the aforesaid revisional application being C.O. 1196 of 2024 along with its connected application being CAN 1 of 2024 is accordingly disposed of with a cost of Rs.50,000/- to be paid by the husband / opposite party to the petitioner within a period of two weeks from date.

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

(Raja Basu Chowdhury, J.)