

24.04.2025
DL. 45

Court No. 652
sg

CO 1395 of 2024

**Parichita Banerjee
Vs.
Argha Bhattacharya**

Mr. Arnab Roy
Ms. Sayani Ahmed
....for the petitioner.

Present petition has been filed for transfer of Matrimonial Suit No. 28 of 2024 pending before the 3rd Court of learned Additional District Judge, Howrah to the 1st Court of learned Additional District Judge, Barrackpore, North -24 parganas.

Learned Counsel for the petitioner submits that earlier respondent/husband had filed Matrimonial Suit No. 993 of 2021 for judicial separation under Section 23 of the Special Marriage Act before the Court of learned Additional District Judge at Howrah. Petitioner has filed CO. 1975 of 2021 (Parichita Banerjee Vs. Sri Argha Bhattacharya) for the transfer of the Matrimonial Suit No. 993 of 2021 and this Court vide order dated 20th December, 2021 taking into account the comparative advantage or disadvantage and harassment of the parties disposed of the transfer application and ordered transfer of Matrimonial Suit No. 993 of 2021 from Howrah to Sealdah.

Learned Counsel submits that however the opposite party did not appear at the Sealdah Court and this matrimonial suit was dismissed for default. Learned Counsel submits subsequently the opposite party with mischievous intention filed an application under Section 27 of the Special Marriage Act, 1954 before the learned District Judge, 24 parganas at Barasat being Matrimonial Suit No. 486 of 2023. However, the learned District Judge, Barasat vide order dated 3rd April, 2023 transferred the suit to the First Court of the learned Additional District Judge, Barrackpore, (re-numbered as 866 of 2023) on account of territorial jurisdiction.

Learned Counsel submits that the opposite party while concealing all these facts filed the fresh Matrimonial Suit No. 28 of 2024 before the 3rd Court at Additional District Judge at Howrah. Learned Counsel submits that the continuance of such suit would be misuse and abuse of the process of law and for the proper adjudication the same may be transferred to the First Court, Learned Additional District Judge, Barrackpore, North 24-parganas.

This Court vide order dated 7th August, 2024 ordered for issuance of notice to the opposite party and the advocate in the Court below and stayed all further proceedings of both the Matrimonial Suit No. 28 of 2024 and Matrimonial Suit No.866 of 2023 till

the end of October, 2025 or until further orders, whichever is earlier.

Learned Counsel for the petitioner has filed affidavit of service along with tracking report of speed post to the effect that opposite party and learned Counsel has duly been served. However, the respondent has chosen not to appear.

The facts as being disclosed by the learned Counsel for the petitioner and not being controverted by the respondent shows that the opposite party has been filing suits against the petitioner at different forums. The pendency of such petition in two different courts would certainly lead to misuse and abuse of process of the Court as well as contradictory judgements and in order to ensure proper administration of justice and convenience of petitioner wife the Matrimonial Suit No. 28 of 2024 pending before the 3rd Court of learned Additional District Judge, Howrah is withdrawn and transfer to the Court to the learned Additional District Judge, Barrackpore, North 24-parganas for trial in accordance with law. The transferor Court is directed to send the entire record to the transferee jurisdictional Court. Copy of the order be sent to the transferor Court and to the transferee Court.

Urgent Photostat certified copy of this order be supplied to the parties.

Parties are directed to appear before the transferee Court on 17th June, 2025. It is made clear that this Court has not gone into merits of the case and no expression made herein shall tantamount to be an expression on the merits of the case.

Parties are directed to act on server copy of this order.

Accordingly, CO 1395 of 2024 and all other pending applications, if any, stands disposed of.

(Dinesh Kumar Sharma, J.)