

21
24.4.2025
Ct. No. 652
SB

C.O. 2231 of 2023

Shila Das (Sarkar)
Vs.
Apurba Sarkar

Mr. Sibaji Kr. Das
Mr. Dipendu Sarkar
Ms. Deblina De
Mr. Kushal Kumar ... for the petitioner

The present petition has been filed for transfer of Matrimonial Suit No. 920 of 2023 titled as Apurba Sarkar vs. Shila Das (Sarkar) under Sections 13(1)(ia)(ib) of the Hindu Marriage Act pending in the learned Additional District Judge, Fast Track Court No.3, Barrackpore, District –North 24 Parganas to the Court of learned Additional District Judge, Ranaghat, District- Nadia.

Learned counsel appearing on behalf of the petitioner submits that the respondent had also filed a Matrimonial Suit No. 1758 of 2020 titled as Apurba Sarkar vs. Shila Das (Sarkar) under Section 9 of the Hindu Marriage Act in the Court of learned Additional District Judge, Fast Track Court No. 2, Barrackpore, North – 24 Parganas.

Learned counsel appearing on behalf of the petitioner submits that a petition was moved by the petitioner bearing number 754 of 2021 titled as Sila Das (Sarkar) vs. Apurba Sarkar and co-ordinate Bench of this Court vide order dated 07.7.2021 transferred the Matrimonial Suit bearing number 1758 of 2020 under Section 9 pending in the Court of learned Additional District Judge, Fast Track Court No. 2 Barrackpore, District North 24 Parganas to the Court of learned Additional

District Judge, Ranaghat, District – Nadia. The copy of such order has duly been placed on record.

Learned counsel appearing on behalf of the petitioner submits that this matter was initially taken out on February 8, 2024 and the co-ordinate Bench of this Court while passing the order of stay of all further proceedings in Matrimonial Suit No. 920 of 2023 titled as Apurba Sarkar vs. Shila Das (Sarkar) under Sections 13(1)(ia)(ib) of the Hindu Marriage Act pending in the learned Additional District Judge, Fast Track Court No.3, Barrackpore, District –North 24 Parganas.

On perusal of record indicates that the opposite party did not appear despite service. The affidavit of service was taken on record as reflected in proceedings dated 01.5.2024. Subsequently, the interim order was extended by the order dated 25.02.2025. and this order was also duly communicated to the respondent and an affidavit of service was filed.

The co-ordinate Bench of this Court while effecting transfer of Matrimonial Suit No. 1758 of 2020 had recorded the reasons for the transfer of the matter which were reproduced below.

“The contentions raised are that in order to the learned Court below at Barrackpore on the dates fixed, the petitioner has to leave her residence at 8 A.M. in the morning and return at 7 P.M. at night. The petitioner further contends that for reaching to learned Court below at Midnapore Town, on the dates fixed by 10.30 A.M. through the shortest possible route, the petitioner has to leave her residence situated at Village – Joygopalpur, District – Nadia at 8 A.M. in the morning and board a trekker van which is always not available in the early hours of the morning and travel a distance of about 8 kilometers to reach Ranaghat Railway

Station. From Ranaghat Railway Station, she has to overcome the heavy and tremendous rush of daily passengers travelling to Kolkata which she is not accustomed to being a housewife and also amidst the fear of getting infected by the Novel Corona Virus she has to board a train and has to reach the Barrackpore Station which takes about 1 ½ to 2 hours time and subject to availability of train and 60 kilometers away. Thereafter from Barrackpore Railway Station the petitioner once again has to board an Auto rickshaw and travel a distance of 2 kilometers to reach the learned Court at Barrackpore. Hence it is very must clear that to attend the learned Court at Barrackpore from her residence at village – Joygopalpur, District – Nadia and for returning back to her residence on the selfsame day, the petitioner has to travel more than 70 kilometers in single journey and thereby 140kilometers in a day and undergo several break journeys and bear the travelling expenses for the same and remain detached from her residence for about 10-11 hours which is quite impossible on her part as she is not maintained by the opposite party/husband herein at all. The petitioner further states that she does not receive any maintenance from the opposite party herein for which it is very difficult for her to maintain her livelihood, bear the expenses and continue with such litigation by travelling such long distance to the learned Court at Barrackpore from her residence at Village – Joygopalpur, District – Nadia. Furthermore, the petitioner herein presently also has no one to accompany her to the learned Court below at Barrackpore on the date fixed particularly when her aged ailing father cannot do so any more and it is also not possible for her to remain detached from her residence for about 10/11 hours in a day. Furthermore, travelling

of such long distance by a lady alone always involves an element of risk and the petitioner herein also has no relative in the Barrackpore where she can stay and pursue with the litigation on the dates fixed. But on the contrary, if the said case is transferred to the Court of the learned District Judge, Nadia at Krishnagar or to any other learned Court which is within her present territorial jurisdiction it will be closer from her residence and convenient for her to pursue the litigation particularly when she can reach the learned Courts easily from her paternal home thereby enabling her smooth and hassle less travel. Moreover, such transfer will not cause prejudice to the opposite party and cause inconvenience to him as he is very much financially stable and sound having sufficient source of income and is residing at Naihati in the District – North 2Parganas. The transfer sought for will also benefit the petitioner herein additionally as her travelling expenses will be saved when she is not being maintained by the opposite party herein.

Now it is pointed out by Mr. Shibaji Kumar Das, learned Advocate for the petitioner that if the matrimonial suit is transferred to the Court of Additional District Judge, Ranaghat under the district Nadia, it would be convenient for both the parties to commute from their respective residences on the date of hearing of the suit.

I understand that Ranaghat Sub-divisional Court is near to the residence of the opposite party/husband at Naihati. Similarly, it would be convenient for the petitioner/wife to attend Court at Ranaghat.

Having regard to the convenience of the parties and in the catena of decisions of the Hon'ble Supreme Court wherein it has

been held that it is always preferable to transfer suit to the jurisdiction of the learned Court where the wife resides and grant her opportunity to contest the suit on merits as best justice is always rendered if the suit is heard out on contest.

For the reasons above, let the Matrimonial Suit being No. 1758 of 2020 under Section 9 pending in the Court of the learned Additional District Judge, Fast Track Court No. 2, Barrackpore, District – North 24 Parganas be transferred to the file of learned Additional District Judge, Ranaghat in the district of Nadia.”

Learned counsel appearing on behalf of the petitioner has stated at bar that the grounds for transfer are identical in the present petition except that of Carona Virus. It has repeatedly been held by the Apex Court that in the litigations the convenience of the wife has to be seen unless in the exceptional circumstances.

The respondent has chosen not to come forward to contest the application for transfer.

In the facts and circumstances, for the reasons mentioned above, the Matrimonial Suit No. 920 of 2023 titled as Apurba Sarkar vs. Shila Das (Sarkar) undedr Sections 13(1)(ia)(ib) of the Hindu Marriage Act pending in the learned Additional District Judge, Fast Track Court No.3, Barrackpore, District –North 24 Parganas is withdrawn and transferred to the Court of learned Additional District Judge, Ranaghat, District- Nadia.

Transferor Court is directed to send the entire record to the transferee Court within a period of thirty days from the date of receipt of the copy of the order. A copy of the order also be sent to the Court of learned Additional District Judge, Fast Track Court No.3, Barrackpore, District –North 24 Parganas and Court

of learned Additional District Judge, Ranaghat, District Nadia for necessary compliance.

Parties are directed to appear before the transferee Court on 10.6.2025.

The matter stands disposed of along with all connected pending applications.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(Dinesh Kumar Sharma, J.)