

Sl. 10
25.03.2025
Court No.6
BP

C.O. 2909 of 2023

Ankita Dey Basak
-versus-
Arnab Basak

Mr. Somnath Roy Chowdhury
Ms. Arpita Chowdhury
... for the petitioner

Mr. Sbhubhan Gupta
Mr. Diptiman Mukhopadhyay
Mr. Sumon Pathak
Mr. Raunak Shaw
Mr. Sumon Pathak
Mr. Raj Sekhar Bal Bakshi
..for the opposite party

Though this matter is appearing under the heading “Extension of Interim Order” but with the consent of the learned advocates for the respective parties the main application under Section 24 of the Code is taken up for hearing by treating the same as on the day’s list.

This application under Section 24 of the Code of Civil Procedure is at the instance of the wife praying for transfer of the Matrimonial Suit No. 259 of 2023 presently pending before the Learned Additional District Judge at Kalyani, Nadia to the court of the learned District Judge at Howrah. It has been stated in the said application that several proceedings between the parties are pending in the Howrah court.

It has further been stated in the said application that due to long distance between the

residence of the petitioner and Kalyani court it is difficult for the petitioner to defend the matrimonial suit at Kalyani court.

The opposite party herein has filed an affidavit in opposition denying the allegations contained in the application under Section 24 of the Code of Civil Procedure. It has been stated in the said opposition that the brother of the petitioner herein is a judicial magistrate and at present posted at Sealdah Court and is trying to misuse the legal machinery to influence the outcome of the matrimonial suit in question and other criminal proceedings initiated by the petitioner.

Learned advocate appearing for the petitioner submits that since various proceedings are pending before the Howrah court the instant matrimonial suit should be transferred to the court at Howrah.

Learned advocate appearing for the opposite party submits that since the brother of the petitioner is trying to influence the outcome of the matrimonial suit as well as other criminal proceedings the same should not be transferred to the Howrah court.

The learned advocate further submits that the opposite party herein has specifically disputed the distance between the residence of the petitioner and Kalyani court.

Heard the learned advocates for the respective parties and perused the materials placed.

It is not in dispute that a proceeding under the Protection of Woman from Domestic Violence Act, 2005 is pending before the learned Judicial Magistrate, 5th Court at Howrah.

Though an allegation has been made against the brother of the petitioner herein that he is trying to influence the outcome of the matrimonial suit as well as other criminal proceeding, but the opposite parties have not taken any steps for transfer of the proceedings that are pending between the parties before the Howrah Court. That apart unsubstantiated allegations against a Judicial Officer cannot be a ground to deny the prayer for transfer of the Matrimonial Suit at the instance of the wife before the Howrah Court.

In view thereof, this Court is not inclined to accept the submission of the opposite parties that the brother of the petitioner is trying to influence the outcome of the matrimonial suit as well as other criminal proceedings. Taking into consideration the fact that a criminal proceeding is pending before the Howrah court and the opposite party herein is contesting the same at Howrah court, this Court is of the considered view that the matrimonial suit

should be transferred to the court of the learned District Judge at Howrah.

In view thereof, the Matrimonial Suit no. 259 of 2023 is withdrawn from the file of the learned Additional District Judge at Kalyani, Nadia and the same shall stand transferred to the learned District Judge, Howrah immediately. The learned Additional District Judge, Kalyani, Nadia is directed to transmit the records pertaining to Matrimonial Suit no. 259 of 2023 to the learned District Judge, Howrah immediately upon receipt of a server copy of this order. Let this order be communicated to the learned District Judge at Kalyani, Nadia through the Registry. Immediately upon receipt of the records of Matrimonial Suit No. 259 of 2023, the learned District Judge, Howrah shall either decide the same or assign the Matrimonial Suit to any Additional District Judge within his jurisdiction.

With the above observations, C.O. 2909 of 2023 stands disposed of. Application, if any pending stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)