

17.01.2025
Item No.
AD 1
Saswata

**C.O. 4363 of 2023
CAN 1 of 2024**

**Swagata Basu (Chatterjee)
versus
Probal Chatterjee**

Mr. Tarak Nath Halder
Mr. Sagnik Chatterjee

...For the petitioner

Mr. Arun Kumar Maiti (Mohanty)
Mr. Chhandak Chakraborty
Mr. Anand Keshri
Ms. Snigdha Ghosh
Ms. Pusprita Chowdhury

...For the opposite party

1. Two several affidavits of service filed in Court today are retained with the record.
2. This is an application under Section 24 of the Code of Civil Procedure. The opposite party has filed a matrimonial suit being MAT suit no. 572 of 2021 praying for the dissolution of marriage with the petitioner by a decree of divorce before the Learned Additional District Judge, 8th Court at Alipore, South 24 Parganas.
3. The wife/petitioner prays for withdrawal of the said suit from the aforesaid Court and for transfer of the same to the Court of the Learned Additional District Judge, 1st Court, Siliguri on the ground that she is residing at Siliguri along with her minor daughter and it would be inconvenient for her to travel a distance of 600 kms to Alipore to contest the suit.
4. Mr. Halder, learned advocate appearing for the petitioner by drawing attention of this Court to the statements made in the revisional application submits

that a proceeding under the provisions of Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the “said Act”) is also pending before the Criminal Court at Siliguri.

5. By placing before this Court the order no. 12 dated 3rd July 2023 passed in Misc. Case no. 58 of 2022 it is submitted that the Learned Judge by such order had allowed an amount of Rs.10,000/- to be paid to the wife/petitioner (Rs.5000/- to the wife and Rs.5000/- for the minor daughter) per month, thereby directing the husband/opposite party to make such payment of the aforesaid sum from the date of filing of the application, month by month on each succeeding month till disposal of the application under Section 12 of the said Act. The husband/opposite party has, however, been unsuccessful in obtaining stay of such order before the Coordinate Bench of the Circuit Bench of this Court at Jalpaiguri in CRAN 1 of 2024 arising out of CRR no. 244 of 2023, which was dismissed by order dated 12th December 2024. It is submitted that till date the husband / opposite party has not complied with the aforesaid direction for making payment of compensation. Let the copies of the aforesaid orders as placed before this Court be taken on record.
6. Learned advocate appearing for the husband / opposite party on the other hand, submits that the petitioner has approached the Learned Additional District Judge, 8th Court at Alipore, South 24 Parganas in October 2024 and has prayed for

alimony. Since, according to the husband / opposite party, the petitioner has been contesting the proceeding at Alipore, no order for transfer of the proceedings to Siliguri Court should be passed. He submits that alternatively, this Court may direct this matter to be transferred to any place mid way apart from Siliguri.

7. Having heard the learned advocates appearing for the respective parties and having considered the materials on record, it may be noted that by order dated 29th July 2024, the instant revisional application was admitted. A Coordinate Bench of this Court upon being prima facie satisfied that a case for withdrawal and transfer of the MAT suit being no. 572 of 2021 has been made out, was not only pleased to admit the revisional application but had also passed an interim order, thereby staying all further proceedings in the aforesaid matrimonial suit till the end of November 2024. It, however, appears that the aforesaid order was not extended and had lapsed by passage of time. The petitioner has since then filed an application for extension and / or for passing of a fresh interim order which has been filed on 23rd December 2024.
8. Since, the learned advocate appearing for the husband/opposite party has raised serious objection as regards grant of any fresh interim order, this Court has, by consent of the parties, taken up the hearing of the revisional application itself.

9. By taking note of the fact that the petitioner is presently residing at Siliguri with her minor daughter who is aged about 5 years and also taking note that a proceeding under the provisions of the said Act being Misc. Case No. 58 of 2022 is pending before the learned 4th Court of Judicial Magistrate, Siliguri and considering the distance between Siliguri and Alipore, which is approximately 600 kms. (one way), having regard to the ratio of the judgment delivered in the case of ***N.C.V. Aishwarya v. A.S. Saravana Karthik Sha***, reported in **2022 SCC OnLine SC 1199**, I am of the view that it is necessary to withdraw the matrimonial suit being no. MAT 572 of 2021 from the Court of Learned Additional District Judge, 8th Court at Alipore, South 24 Parganas, and to transfer the said suit to the Court of Learned Additional District Judge, 1st Court at Siliguri.
10. Let the records of the case being no. MAT no. 572 of 2021 which are now presently lying with the Court of Learned Additional District Judge, 8th Court at Alipore, South 24 Parganas be transmitted to the Court of Learned Additional District Judge, 1st Court at Siliguri.
11. With the above directions and observations, the Civil Revisional application being C.O. 4363 of 2023 along with its connected application being CAN 1 of 2024 is disposed of.
12. There shall be no order as to costs.

13. 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.)