

09.06.2025
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**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

**C.O. 62 of 2025
with
CAN 1 of 2025**

**Dona Naskar
-Vs-
Rohit Roy**

Mr. Sujoy Chakraborty,
Ms. Shashwati Bhattacharjee
Mr. Mayank Roy

... for the petitioner

Mr. Sudip Guha
Mr. Sandip Guha Roy
Mr. Ananda Paul

... for the opposite party

Affidavit of service filed in Court today is taken on record.

This is an application filed by the wife/petitioner under Section 24 of the Code of Civil Procedure, 1908 (in short 'CPC') for transfer of a petition for restitution of conjugal rights now pending before the learned Fast Track Court, 2nd Court, Jalpaiguri being Matrimonial Suit no. 553 of 2021.

It is the case of the petitioner that the first notice which was served in the aforesaid suit was in the year 2025, pursuant to which this application for transfer of the suit has been made on 9th April, 2025. The opposite

party is represented. It is not in dispute that the first notice of the said Matrimonial Suit was served only in the year 2025.

It is the further case of the petitioner that marriage between the petitioner and the opposite party took place at Kestopur in Kolkata. The parties resided as husband and wife in a rented accommodation at Kestopur, Kolkata. Subsequently, the relationship soured which resulted in the petitioner staying at her paternal abode with two minor children also at Kestopur, Kolkata. The first child is a daughter aged about 12 years which is from the first marriage of the petitioner. The second is a boy born out of the present wedlock on 11th July, 2020.

The opposite party has attempted to resist the application for transfer on the ground that he has a challenged sister and he is the only care-giver. This reason, however, does not stand good when it is an admitted position that after the marriage the opposite party stayed in a rented accommodation with the petitioner at Kestopur, Kolkata and not at Jalpaiguri where the challenged sister resides or resided.

After hearing the parties and considering the materials on record as also the legal provisions, I find that the balance of convenience and inconvenience is overwhelmingly tilted towards the petitioner/wife. With two minor children it will not only be inconvenient but

may at times be an impossibility for the petitioner to come from Kestopur, Kolkata to Jalpaiguri either with the two minor children or by making arrangement for them in kolkata to defend or proceed with the litigation. On the other hand, the opposite party assuming without admitting is the only care-giver of her challenged sister may have to leave station for a day or two to attend proceedings if the suit is transferred to the Court of learned Court of District & Sessions Judge at Barasat, North 24 Parganas.

In the aforesaid facts and circumstances, Matrimonial Suit no. 553 of 2021 now pending before the learned Fast Track Court, 2nd Court, Jalpaiguri is transferred with all connected applications now pending, to the Court of learned District & Sessions Judge, Barasat, North 24 Parganas. The records of the proceedings shall be sent by the Registry of the learned First Track Court, 2nd Court at Jalpaiguri within a period of one month from the date of communication of this order to the Court of learned District & Sessions Judge, Barasat, North 24 Parganas.

The Registry of the Circuit Bench at Jalpaiguri is directed to communicate a copy of this order to the learned District Judge, Jalpaiguri as also to the learned First Track Court, 2nd Court at Jalpaiguri and the learned District & Sessions Judge, Barasat, North 24 Parganas.

Nothing further remains to be decided in this revisional application. The same is accordingly disposed of.

All connected applications, if any, made in this application stand disposed of.

Interim order, if any, passed in this application stands vacated.

Parties are to act on the server copy of this order duly downloaded from the official website of this Court.

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

(**Arindam Mukherjee, J.**)