



2023:CHC-AS:6817

S/L 178
02.02.2023
Court No.652
SD

CO 2195 of 2022

Smt. Arpita Sil
Vs.
Sri Sagar Nayak

Mr. Subhajit Chowdhury

... for the Petitioner.

*Mr. Moyukh Mukherjee
Mr. Abhijit Singh
Mr. Shakti Halder
Mr. Sarthak Mondal*

... for the Opposite Party.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner seeking transfer of Matrimonial Suit No.1213 of 2021 from the Court of learned Additional District Judge, Fast Track Court No.2, Barrackpore to the Court of learned District Judge, Paschim Bardhaman at Asansol.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs on 29.02.2012 and they are blessed with a male child who is now aged about 9 years and presently residing with the petitioner/mother.

The petitioner further submits that she has filed one application under Section 125 of the Code of Criminal Procedure which is pending before the learned Chief Judicial Magistrate, Paschim Bardhaman at Asansol. The petitioner further submits that all on a sudden, the husband/opposite party has initiated aforesaid suit for dissolution of marriage which is pending before learned Additional District Judge, Fast Track Court No.2, Barrackpore.



The petitioner states that the court at Barrackpore situates at a distance of 227 kms. from the present residence of the petitioner and petitioner has no independent source of income and she is not in a position to travel such distance from her place of residence to Barrackpore due to weak financial condition. Moreover, she also feels insecure to travel such a long distance along with her minor child and accordingly, she has sought for aforesaid transfer.

Learned counsel appearing on behalf of the opposite party raised vehement objection and contended that the personal appearance of the petitioner may be directed to be dispensed with and she may be directed to be represent through her lawyer before the Barrackpore court. He further submits that the marriage between the parties took place within the jurisdiction of Barrackpore Court and accordingly, Barrackpore Court has the jurisdiction to try the said proceeding.

Having considered the facts and circumstances of the case and that the distance involved between the two places and that the petitioner is an unemployed lady and custodian of a minor child, aged about 9 years and other proceeding under Section 125 of the Code of Criminal Procedure is pending in the Asansol Court, where the opposite party would be required to attend and that in such cases where the husband has filed the suit for dissolution of marriage, the convenience of the petitioner is of paramount importance and that it is not in dispute that the husband is an able bodied person and as such the inconvenience faced by the



petitioner being an unemployed lady in travelling to another place for pursuing aforesaid matrimonial suit along with child, in the socio-economic situation prevailing in the country, is much more than the inconveniences that might be caused by the opposite party/husband, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, North 24 Parganas at Barasat is hereby directed to withdraw the Matrimonial Suit No.1213 of 2021 from the Court of learned Additional District Judge, Fast Track Court No.2, Barrackpore and to transmit the case record to the Court of learned District Judge, Paschim Bardhaman at Asansol within a period of three weeks from the date of communication of the order.

The transferee court shall give fresh notice intimating the next date of hearing upon both the parties before taking up further proceeding of the suit and the transferee court shall proceed with the suit at the stage where it reached till date.

Department is directed to send a copy of this order to the learned District Judge, Paschim Bardhaman at Asansol as well as the learned District Judge, North 24 Parganas at Barasat immediately.

With these observations, C.O. 2195 of 2022 is disposed of.

There will be no order as to costs.



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

(Ajoy Kumar Mukherjee, J.)