

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3777 of 2012

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Naresh Chandra Gupta, son of Late Sita Ram Sah, resident of Mohalla Koluhurawa,
P.W. Motihari Town, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through Law Secretary, Bihar, Patna.
2. Raja Kunal, son of Rajesh Chandra Jaiswan, resident of Green House,
Dumarwanna Bairgania, P.S.- Bairgania, District- Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. SHIV SHANKAR PRASAD YADAV

For the Respondent/s : Mr. ASHOK KUMAR KESHRI AAG11

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 26-02-2015

Heard learned counsel for the petitioner and the learned
counsel or the opposite party no. 2.

The petitioner has filed this application, under Section 24
of the Code of Civil Procedure, for transfer of the Miscellaneous Case
No. 1 of 2011, filed on behalf of the opposite party no. 2 against the
petitioner, under Section 25 of the Guardian and Wards Act 1990, for
custody of his minor son, Aniket @ Rahil Jaiswal, pending in the
Court of District and Sessions Judge, Sitamarhi to the District and
Sessions Judge, Motihari, East Champaran.

Learned counsel for the petitioner submits that petitioner
is the grand- maternal-father (Nana) of Aniket @ Rahil Jaiswal, minor
son of opposite party no. 2, who has filed Miscellaneous Case No. 1
of 2011 in the court of District and Sessions Judge, Sitamarhi for



custody and guardianship of his son against the petitioner. In fact, the marriage of Ansu Jaiswal, daughter of the petitioner, was performed with opposite party no.2, Raja Kunal, and she died due to Cancer diseased leaving behind her minor child, Aniket Jaiswal @ Rahil Jaiswal, who is staying with the petitioner. The opposite parties filed the aforesaid miscellaneous case for custody and guardianship of his son Aniket @ Rahil Jailwl against the petitioner. The petitioner is practicing as Advocate at Motihari and not in a position to move to Sitamarhi court in the aforesaid miscellaneous case as his only son is residing at Delhi. Learned counsel for the petitioner further submits that the petitioner feels danger to his life in doing the Pairvy of the case at Sitamarhi as the opposite party no. 2 is regularly giving threatening to him.

On the other hand, learned counsel for the opposite party no. 2 submits that petitioner, who is the father-in-law of opposite party no. 2 is practicing Advocate at Motihari and only to harass the opposite party no. 2 has field the present application to transfer the Miscellaneous Case No. 1 of 2011 filed by the opposite party no. 2 for custody of his son from the court of District and Sessions Judge, Sitamarhi to the court of District and Sessions Judge, Motihari, East Champaran without any basis only to harass the opposite party no. 2. Moreover, in spite of the notice, the petitioner did not appear in the

court of District and Sessions Judge, Sitamarhi in Miscellaneous Case No. 1 of 2011. Learned counsel for the opposite party no. 2 further submits that while it is alleged that petitioner has danger to his life due to threatening by the opposite party no. 2 to move at Sitamarhi but no any paper has been placed regarding that.

Having heard the learned counsel for the petitioner and the opposite parties, I find no ground to allow this application to transfer the Miscellaneous Case No. 1 of 2011 filed under Section 25 of the Guardian and Wards Act 1990 from the court of District and Sessions Judge, Sitamarhi to the court of District and Sessions Judge, Motihari.

Accordingly, the present application is dismissed.

(Rajendra Kumar Mishra, J)

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