

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.232 of 2018

-
1. Dhananjay Singh, son of Late Madhusudan Singh, resident of Village- Sher Bijulia, Police Station Biroul, District- Darbhanga, at present Laxmi Nagar near Sub- post Office in the house of Prof. Shashank Shekhar, P.S. L.N.M.U. District Darbhanga.
 2. Smt. Kavita Devi, wife of Dhananjay Singh, resident of Village- Sher Bijulia, Police Station Biroul, District- Darbhanga, at present Laxmi Nagar near Sub- post Office in the house of Prof. Shashank Shekhar, P.S. L.N.M.U. District Darbhanga.

... .. Petitioner/s

Versus

Vijay Singh, son of Late Saligram Singh, resident of Village- Bela Simari, Police Station- Gangaur, District- Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Advocate
For the Respondent/s : Mr. Amrit Abhijat, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 16-08-2018 Heard learned counsel for the petitioners and learned counsel representing the opposite party.

This application has been filed seeking transfer of the Guardian and Wards Case No. 3 of 2017 filed by the opposite party which is pending in the court of learned Principal judge, Khagaria to the court of learned District Judge, Darbhanga.

The grounds set forth in the petition for seeking transfer is based on an apprehension of the petitioners that it would not be safe for them to visit the court of Khagaria to contest this case brought by the opposite party. Reference has been made to the allegations which were the subject matter of



investigation in L.M.N.U. P. S. Case No. 18 of 2017 wherein it was alleged that the opposite party had, in fact, killed the daughter of the petitioners. It is submitted that even though the Police upon investigation of the case submitted a final report saying that the allegations were not found true and the report of the Investigating Agency has been accepted by the learned Chief Judicial Magistrate, Darbhanga, the present petitioners are contesting the issues before this Court. It is submitted that the three children of the deceased daughter of the petitioners are residing with the petitioners and therefore, in the given facts and circumstances of the case, it would be just and proper to transfer the case from Khagaria to Darbhanga.

On the other hand, learned counsel representing the opposite party submits that, in fact, the Police has investigated the first information report lodged by the petitioner no. 1 and on the basis of the apparent evidence which has been collected by the Investigating Agency, a final report was submitted exonerating the opposite parties from the charges levelled against them. Learned counsel has drawn the attention of this Court towards order dated 12.10.2017 passed in Guardianship Case No. 12 of 2017 by the learned Principal Judge, Family Court, Darbhanga which is Annexure-R/c to the counter



affidavit filed on behalf of opposite party. Learned counsel submits that Guardianship Case brought by the petitioner was rejected by specifically recording the findings against the petitioners. The fact remains that the order dated 12.10.2017 was never challenged by the petitioners and the same has attained finality. It is submitted that in view of the findings recorded therein, it would not be safe for this Court to direct transfer of the case from Khagaria to Dharbhanga at the instance of the petitioners.

Having heard learned counsel for the petitioners and learned counsel for the opposite party and on perusal of the record, this Court finds that the only ground on which the transfer has been sought is the apprehension of the petitioners that it would not be safe going to Khagaria to contest the present case which has been brought by the opposite party. The reason for such apprehension is that the petitioner no. 1 had lodged first information report against the opposite party for the alleged killing of his daughter. It is not in dispute that upon investigation the said case has been closed by the Police saying that the allegations against the accused persons were not found true. Report has been accepted by the learned Chief Judicial Magistrate, even though the petitioners are contesting the order



passed by the learned Chief Judicial Magistrate before this Court, for the present the Court will only take note of the fact that in investigation nothing could be found against the opposite party. The apprehension of the petitioners has, thus, no basis to stand. After going through the order passed in Guardianship Case No. 12 of 2017, this Court finds that in well reasoned and speaking order the learned Principal Judge, Family Court, Darbhanga has inter alia recorded:

“..... Therefore, asking relief for declaration of Guardianship and for appointment of legal Guardian under the Guardians and Wards Act, 1890, including other Provisions is asking under the garb of dealing with the future prospect of the property/assets left by the deceased parents of the minor children in question and as such, it is clearly apparent that there is complete essence of dealing with the matter in issue of property of the minor children names mentioned earlier and it seems that there is relief amplicit of the fact related to property of the minor children in question.....”

In the aforesaid findings which has not been challenged by the petitioners coupled with the fact that the



apprehension of threat has not been prima facie proved, this Court would not be inclined to grant reliefs prayed in this writ application.

This application has no merit. It is accordingly, dismissed.

(Rajeev Ranjan Prasad, J)

avin/-

U			
---	--	--	--

