

Ankita Panda (Chakraborty) vs. Kumar Raja Panda

Mr. S. K. Das

..For the petitioner.

Let affidavit of service filed in Court be kept with the record.

Affidavit of service reflects that the service has been effected upon opposite party but none appears to represent opposite party.

In this application under section 24 CPC, Act VIII Case No. 17 of 2020 (Kumar Raja vs. Ankita Panda) has been sought to be transferred, whereby the opposite party/husband has sought for custody of the minor under the provision of sections 7,8 and 12 now pending in the file of the learned District Judge, Paschim Midnapore and the petitioner/wife is seeking transfer of the case to any other court within the jurisdiction of the present residence of the petitioner.

It is submitted that opposite party husband has with malafide intention filed the case in the court of District Judge, Paschim Midnapore to harass the petitioner as she along with her minor child lives at Jangalpur, Purbapara, PS- Chakdah, District- Nadia which is at a distance of about 200 k.ms in a single journey and return journey it would be 400 k.ms in a day with several break journeys to attend the court of District Judge, Paschim Midnapore. That apart, the petitioner has to bear expenses on account of travelling. It is pointed out that miscellaneous case under section 125

Cr.P.C has been instituted by the petitioner against the opposite party which is pending in the court of Kalyani, Nadia and the opposite party attends the proceeding on the date fixed.

It also appears from the averments made by the petitioner that opposite party is working in the Indian Army and has a transferable job and is presently posted in Madhya Pradesh. Therefore, in consideration of the future of the child and welfare of the child, it would not be prudent to give custody of the child to the opposite party.

Having heard learned advocate for the petitioner and in consideration of the provision of section 9(1) of the Guardian & Wards Act, 1890 which provides that if the application is with respect to the guardianship of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides, and since the child is a student of pre-nursery section situated at Madanpur in the District-Nadia, the case being no. Act VIII Case No. 17 of 2020 pending in the Court of District Judge, Paschim Midnapore be withdrawn and the file be transferred to the court of learned District Judge, Nadia within whose territorial jurisdiction the child is residing with her mother.

Let a copy of this order be sent to the District Judge, Paschim Midnapore and District Judge, Nadia at Krishnagar for information and necessary action.

Accordingly, application being C.O. 55 of 2021 is allowed and disposed of.

(Shivakant Prasad, J.)

