

27.09.2021
(S/L-23)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 2473 of 2019

Tania Khan Mallick
-Vs-
Md. Sabbir Mallick

Mr. Samrat Choudhury,
Mr. Anit Dey,
..... For the petitioner.

Affidavit-of-service filed on behalf of the
petitioner be kept with the record.

None appears on behalf of the opposite party
in spite of service.

The parties to the present application under
Section 24 of the Code of Civil Procedure are
husband and wife and they have a child born in
wedlock.

The opposite party/father of the said child
has initiated a proceeding for custody of the said
minor under the Guardians and Wards Act, 1890
being Act VIII Case No. 47 of 2019 which is
pending before the learned District Judge,
District- 24-Parganas (South) at Alipore.

The petitioner is the mother of the said
minor and by the present application she is
praying withdrawal of the said proceeding from
the Court where it is now pending and transfer of
it to the Court of learned District Judge, District-
24-Pargans (North) at Barasat, on the ground

that she is residing at Naihati, District-24-Parganas (North) with her child, as such, it would be difficult for her to travel to Alipore from her residence to contest the said proceeding.

In view of the distance between Naihati and Alipore, the inconvenience pleaded by the petitioner cannot be ruled out, that apart, the child since is residing with the mother within the jurisdiction of the learned District Judge, District-24-Parganas (North) at Barasat, the application for custody of the said minor under the provisions of Guardian and Wards Act, 1890 should have been filed within the jurisdiction of the said learned District Judge.

Therefore, the present application deserves to be allowed.

Let the Act VIII Case No. 47 of 2019 (***Md. Sabbir Mallick vs. Tania Khan Mallick***) be withdrawn from the Court of learned District Judge, District- 24-Parganas (South) at Alipore and be transferred to the Court of learned District Judge, District-24-Pargans (North) at Barasat, who may either keep the said suit in his own file or may transfer it to any Court competent to try and dispose of the said suit under his judgeship.

The said suit, after transfer, shall be proceeded with from the point at which it was withdrawn.

Irrespective of transmission of the records of the said case, the parties are directed to appear before the Court of learned District Judge, District-24-Pargans (North) at Barasat upon production of the server copy of this order on **November 15, 2021.**

The learned District Judge, Barasat is requested to act on such communication.

The petitioner is required to serve copy of this order upon the opposite party within a week from date.

C.O. 2473 of 2019 is thus, allowed with the above terms without any order as to costs.

The department is directed to communicate this order immediately to the learned District Judge, District- 24-Parganas (South) at Alipore and the said Court, upon such communication, expedite the transmission of the records of the said case.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)