

09.03.2022
Item No.15
Ct. No.7
CHC
(disposed of)

**C.O.398 of 2022
(Physical Hearing)**

**Bithi De
VS.
Angshuman De**

Ms. Arunima Das,
Mr. Tirtha Pati Acharya
...for the petitioner

Mr. Arabinda Sen,
Ms. Rita Ganguly
...for the opposite party

This is an application under Section 24 of the Code of Civil Procedure, seeking transfer of Act VIII Case No.18 of 2020 from the court of learned District Judge, Krishnanagar, Nadia to the court of learned Additional District Judge, at Jangipur, Murshidabad.

Admittedly, the wife/petitioner has been staying apart from her husband with her minor son for some matrimonial differences with her husband. The opposite party/husband is a businessman staying at Bethuadahari.

Ms. Arunima Das, learned advocate appearing for the petitioner/wife submits that since the petitioner has already undergone a surgery for removing her brain tumor in November, 2020, it would be quite difficult on her part to participate in the hearing process of Act VIII case pending at Krishnanagar.

Presently, the petitioner has been staying at Raghunathganj, wherefrom the distance to be covered for attending the hearing process of Act VIII case at Krishnanagar is about 120 k.m.

It is contended that petitioner is having some post operative problems, and as such, it would be quite disadvantageous on her part to attend Krishnanagar Court in the interest of ensuring her appearance in Act VIII case at Krishnanagar.

Per contra, Mr. Arabinda Sen, learned advocate appearing for the opposite party/husband submits that since opposite party/husband is engaged in business, his business would be at stake in the event of the case being transferred to Jangipur Court, Murshidabad.

While raising challenge against the proposed transfer, learned advocate for the opposite party submits that he has been deprived of from having his visitation right in respect of his minor son, and the same may be directed to be ensured expeditiously as possible.

Incidentally, it is proposed by the learned advocate for the opposite party/husband that if the case is transferred to a neutral site, which is none but Berhampore Court, that would be equally advantageous for either of the parties to this case,

and it will not cause any prejudice to any of the parties involved in this case.

The proposal so offered by the learned advocate for the opposite party needs to be taken into account vis-à-vis the grounds set out in the transfer application, as referred hereinbelow.

In reply, learned advocate representing the petitioner submits that Berhampore is not far off from Raghunathganj. She thus, concedes to the innocuous proposal, offered by the learned advocate for the opposite party.

When both the parties are consensus, as regards the neutral site, where the present case may be transferred, the Court is under obligation to give due respect to such proposal, being offered by the learned advocate for the opposite party and subsequently accepted by learned advocate for petitioner.

The transfer application is thus disposed of directing the learned District Judge, Nadia at Krishnanagar to transfer the Act VIII Case No.18 of 2020 to the court of learned District Judge, Murshidabad at Berhampore within fortnight from the date of communication of this order.

Both the parties are accordingly directed to ensure their respective appearance before the transferee court on 29th March, 2022.

Petitioner is directed to make communication of this order both to the transferor and transferee court.

Transferee Court, upon receipt of the case record, is directed to ensure expeditious disposal of interlocutory petition, if any pending for visitation right in respect of the child.

The Act VIII Case No.18 of 2020 thus needs to be disposed of providing sufficient opportunity of having to either of the parties to this case.

With this direction/observation, the instant transfer application stands disposed of.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)