

15
AKG 31-03-2022
Ct.21

C.O. 502 of 2022

Sri Kumar Raja Panda
Versus
Smt. Ankita Panda

Mr. Sudipta Kumar Bose,
Ms. Lipika Nath,
Mr. Subhankar Das
...for the Petitioner

Mr. Shibaji Kumar Das,
Ms. Rupsha Sreemani
...for the Opposite Party

Parties are represented by their respective counsel.
The application under Section 24 C.P.C. filed by the husband/petitioner is taken up for hearing.

By filing the application under Section 24 of the Code of Civil Procedure, the husband/petitioner has prayed for transfer of Act VIII Case No. 30/2021 under Sections 7, 8 and 12 of the Guardians and Wards Act, 1890, which he has originally filed in the Court of District Judge Paschim Mednipur (Act VIII Case No. 17/2020) from the Court of learned District Judge, Nadia at Krishnanagar (where it was transferred by virtue of Order passed in in C.O. 55 of 2021 filed by the wife on 13.01.2021) to the Court of learned Additional District & Sessions Judge at Sealdah, South 24 Parganas.

It has been contended that the husband is a defence personnel and at present he is posted at

Himachal Pradesh. It would be hardship on his part to attend the Court at Nadia as after reaching Howrah Railway Station or Sealdah Railway Station from his place of posting, thereafter he has to catch a train to Krishnanagar, the frequency of which is very limited. Rather, it would be convenient for him to attend the Court at Sealdah.

Parties want transfer of the case under Guardians and Wards Act, 1890, where the husband/petitioner has prayed for permanent custody on his minor child and appointment of guardian of his minor child.

Admittedly the child has been residing with her mother since the date of birth and even after separation of her parents since 11.03.2019.

As per provision of Section 9 of Guardians and Wards Act, 1890, application in respect of guardianship of minor or for the custody of minor child should be filed within the district court having its jurisdiction in the place where the minor child originally resides.

In the present case, it is seen that since the date of separation of parents in 2019, the child in question has been residing with her mother at Jungalpur, Purbapara, P.S. Chakdah, District – Nadia.

As per the provision of Section 9 of Guardians and Wards Act, 1890, application under Sections 7, 8 and 12 of the Act, ought to have been filed in the District

Court at Nadia. Then Learned District Judge, Nadia at his/her discretion may transfer the case to the Court of learned Additional District Judge under his judgeship competent to try and dispose of the suit.

The present place of residence of the minor child and her mother is at Chakdah and which falls under Kalyani Sub-Division in the district of Nadia. The distance between Chakdah and Krishnanagar, District Headquarter is about 41 kilometer, whereas distance between Chakdah and Kalyani is about 27 kilometer.

From the record, it is seen that 125 Cr.P.C. proceeding between the parties is also pending before the Court of A.C.J.M., Kalyani.

Therefore taking into consideration the convenience and inconvenience of the parties and to do equity between the parties and the fact Kalyani is well connected by frequent train service from Sealdah Station than to Krishnanagar, Act VIII Case No. 30/2021 under Sections 7, 8 and 12 of the Guardians and Wards Act, 1890 is withdrawn from the record of the learned District Judge, Nadia at Krishnanagar and transferred to the Court of learned Additional District Judge, Kalyani for disposal.

Learned District Judge, Nadia is requested to transfer the record VIII Case No. 30/2021 within a month from the date of communication of this order.

Party shall appear before the learned Additional

District Judge, Kalyani on 10.05.2022 irrespective of transfer of the record of the said suit but only on the basis of server copy of this order. The learned Additional District Judge, Kalyani shall act on such communication.

The transferee Court Learned Additional District Judge, Kalyani shall proceed to dispose of the same from the stage at which it has already reached and requested to expedite the disposal of the said suit in accordance with law.

Accordingly, C.O. 502 of 2022 is disposed of. Connected application, if any, is also disposed of.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Parties are to act on the server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities.

(Kesang Doma Bhutia, J.)