

7.07.2022
SL No. 19
Court No. 14
sk

C.O. 774 of 2022
Anwari Khatoon
Vs
Shahnawaz Alam

Mr. Partha Pratim Roy
Mr. Debayan Roy
...for the petitioner.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of one ACT VIII from the Court of the learned District Judge, South 24-Parganas at Alipore to the Court of the learned District Judge, Howrah.

It is stated by the petitioner Anwari Khatoon that her marriage with the opposite party was solemnized on 9th March, 2019 according to Mohammedan rites and customs. Their marriage was duly consummated. Out of her wedlock with the opposite party she gave birth to a male child, namely, Arsh Alam @ Md. Ayan Alam on 7th January, 2020.

It is alleged by the petitioner that due to torture inflicted upon her she left her matrimonial home and now she is residing at her parental home.

After getting notice from the court of the learned District Judge at Alipore, the petitioner came to know that the opposite party filed ACT VIII Case No. 128 of 2021 against her in the court of the learned District

Judge, South 24-Parganas at Alipore. The petitioner states that she has filed an application under Section 12 of Protection of Women from Domestic Violence Act, 2005 in the Court of the learned Chief Judicial Magistrate at Howrah against the opposite party and this case is pending.

The petitioner submits that her child is too minor. It will be hardship for her to go to the Court at Alipore to attend the aforesaid proceeding of ACT VIII Case No. 128 of 2021. Hence, the prayer.

Admittedly, the petitioner with her child is now residing at her parental home at 2/1, Baje Shibpur Road, Near Aloka Cinema, P.S.-Shibpur, District-Howrah.

Therefore, it stands that the petitioner now ordinarily resides at her parental home with her minor child.

In such circumstances, the ACT VIII should be heard by the learned District Judge, Howrah.

It is not in dispute that an application under Section 12 of Protection of Women from Domestic Violence Act, 2005 filed by the petitioner against the opposite party is pending in the court of the learned Chief Judicial Magistrate at Howrah.

Having heard the learned Counsels appearing for the parties and considering all aspects of the matter, I think that it will be wise to withdraw the aforesaid ACT

VIII case from the court of the learned District Judge, South 24-Pargans at Alipore and transfer the case to the court of the learned District Judge, Howrah.

In view of the above, the revisional application is allowed.

Let ACT VIII Case No. 128 of 2021 be withdrawn from the court of the learned District Judge, South 24-Parganas at Alipore and the case be transferred to the court of the learned District Judge, Howrah for disposal.

The learned District Judge at Alipore is directed to transmit the case record of the aforesaid case to the transferee court immediately after receipt copy of this order.

The department is directed to communicate this order to both the learned courts below immediately.

With the direction as above, C.O. 774 of 2022 stands disposed of.

No order as to costs.

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

(Rabindranath Samanta J.)