

11.05.2022
Item No.28
Court No.18
AJ.

C.O. 1066 of 2019

Srimati Niharbala Roy

-Vs-

**Sri Tapan Biswas, since deceased, his heirs
and legal representatives Jioly Biswas & Ors.**

Mr. Sanjib Kumar Mukhopadhyay.
....for the petitioner.

Mr. Mukhopadhyay, learned advocate for the petitioner files affidavit of service which is taken on record.

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

The petitioner of the present application has suffered an *ex-parte* decree of eviction in Title Suit No. 114 of 2002 passed by the 3rd Court of learned Civil Judge (Junior Division) at Sealdah, District 24-Parganas (North).

The petitioner in the said suit has filed an application under Order IX Rule 13 of the Code of Civil Procedure for setting aside the said *ex-parte* decree, registered as Misc. Case No. 12 of 2008. During pendency of the said misc. case, the seat of the learned Civil Judge (Junior Division), 3rd Court, Sealdah was shifted to Bidhannagar, in consequence thereof, the records of the said misc. case were transferred to the said Court.

The petitioner in the said misc. case filed an application for transfer of the records of the said Misc. Case to any competent Court at Barrackpore, District 24-Parganas (North) on the ground that the learned

Civil Judge (Junior Division) at Bidhan Nagar has no territorial jurisdiction over the said misc. case.

The learned Trial Judge by the order impugned has refused to accede to the said prayer of the petitioner holding that there is no specific direction from any higher forum for transfer of the records of the said Misc. case.

The approach of the petitioner is misconceived inasmuch as the learned Trial Judge is not competent to transfer any records from his Court to any other Court on its own motion, therefore, has rightly refused to entertain the said prayer of the petitioner.

The order impugned does not call for any interference.

This order, however, will not prevent the petitioner to take steps in accordance with law for transfer of the said Misc. case to any court competent to try and dispose of the said Misc. case.

C.O. 1066 of 2019 is, thus, disposed of without any order as to costs.

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.)