

22.06.2022

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C.O. 949 of 2022

Smt. Ritayani Paik nee Nandy

Vs.

Sri Priyonkor Paik

Mr. Swapan Banerjee

Mr. Kunal Ganguly

Mr. Tirupati Mukherjee

... For the petitioner

From the affidavit of service already on record it appears that notice has already been served upon the opposite party. Despite service of notice upon the opposite party, there is no representation on his behalf.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Act VIII Case No.58 of 2022 from the court of the learned Additional District Judge, 3rd Court at Barrackpore, North 24-Parganas to the concerned court at Asansol, Paschim Bardhaman.

To put precisely it is stated by the petitioner, Smt. Ritayani Paik nee Nandy, that her marriage with the opposite party, Sri Priyonkor Paik, was solemnised on 17th January, 2020 and the marriage was registered. The marriage between them was duly consummated and out of her wedlock with the opposite party she gave birth to a female child on 16th November, 2020.

It is alleged by the petitioner that owing to torture inflicted upon her by the opposite party she had to leave her matrimonial home and started residing at her paternal home at Kalyanpur Housing Estate, Asansol,

Paschim Bardhaman.

The petitioner states that she has brought an application under Section 12 read with Section 23 of the Protection of Women from Domestic Violence Act against the opposite party and the application registered as Misc. Case No.260 of 2021 is pending in the court of the learned Judicial Magistrate, 7th Court at Asansol. The petitioner submits that the distance from her paternal home and the court at Asansol is more than 185 kilometers. It will be hardship for her to go to the court at Barrackpore leaving her minor child at her paternal home to attend the aforesaid proceeding under the Guardians and Wards Act. Hence, the prayer for transfer of the aforesaid case.

In the absence of the opposite party, it will be deemed that the facts and circumstances as narrated in the application remain uncontroverted. As I find, a case being Misc. Case No.260 of 2021 brought by the petitioner against the opposite party under the Protection of Women from Domestic Violence Act is pending in the court of learned Judicial Magistrate, 7th Court at Asansol. That being so, the opposite party has to appear before the court at Asansol to participate in the hearing before the court of the learned Judicial Magistrate there.

Having heard the learned Counsel appearing for the petitioner and on consideration of the facts and

circumstances as stated in the application, I am of the view that the petitioner will face immense inconvenience to attend the aforesaid proceeding before the court at Barrackpore.

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

Accordingly, let the Act VIII Case No.58 of 2022 be withdrawn from the court of the learned Additional District Judge, 3rd Court at Barrackpore, North 24 Parganas and the case be transferred to the court of the learned District Judge, Paschim Bardhaman at Asansol for disposal.

The learned District Judge, Paschim Bardhaman may dispose of the Misc. Case either himself or herself or transfer the case to any of the courts of the learned Additional District Judge at Asansol, for disposal.

The learned Additional District Judge, 3rd Court at Barrackpore, is directed to transmit the case records of the aforesaid case to the transferee court immediately after receipt of the copy of this order.

Let a copy of this order be communicated to both the courts below immediately.

Accordingly, the revisional application being C.O. 949 of 2022 stands disposed of.

There shall be no order as to costs.

(Rabindranath Samanta, J.)

