

**24.11.2022**  
**List – D/L.**  
**Sl No.152.**  
**Mithun**  
**Ct.No.652.**

**CO 2551 of 2022**

**Anju Khatun**  
**Vs.**  
**Sk Asif Ahmed**

Mr. Abhinaba Dan, Adv.

...for the petitioner.

Affidavit-of-service filed today be taken on record.

Opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Miscellaneous Case No.41 of 2022 from the Court of the learned Additional District Judge, 4<sup>th</sup> Court at Howrah to the Court of the learned District Judge Purba Medinipur at Tamluk.

Petitioner contended that petitioner is the legally married wife of the opposite party. The parties are blessed with a female child who was born on 27.03.2018 and now under the custody of the husband/opposite party. The petitioner alleged that she was denied proper food and healthy living in her matrimonial home and she was forced to do all the house hold works like a maid servant. Lastly with the false allegation of leading an adulterous life, the opposite party had assaulted the petitioner and had driven her from her matrimonial house on 08.03.2021.

In the meantime, the opposite party/husband has filed a suit for dissolution of marriage in the Court of learned 5<sup>th</sup> Civil Judge, Junior Division, Howrah. Subsequently opposite party/husband filed another Misc. Case No.41 of 2022 praying for an order declaring the opposite party as the legal guardian of the minor daughter.

Petitioner alleged that on 02.07.2022 while petitioner was returning from Court after attending said proceeding, opposite party with some anti-social, surrounded her and asked her not to attend further court proceedings and threatened her with abusive languages and dire consequences and as such she made a written complaint before the Inspector-in-Charge, Howrah Police Station on 02.07.2022 and the same was registered as G.D.No.91 dated 02.07.2022.

The petitioner submits that she is residing at Tamluk and it is extremely difficult for her to attend the Court proceedings at Howrah when she has no means to maintain her livelihood and the distance involved between the two places is almost 75 Kms in one way. She further alleged that the opposite party is an influential person in the locality and threatening the petitioner with dire consequences. Accordingly the petitioner has sought for aforesaid transfer.

While I am considering aforesaid submissions made by the petitioner, I am not unmindful to the fact

that section 9(1) of the Act of 1890 states that territorial jurisdiction of such cases shall be in the place where the minor ordinarily resides but considering the peculiar facts and circumstances of the case that petitioner is being threatened and is being asked not to attend court proceeding and that as opposite party chooses not to contest this proceeding, the allegations leveled by the petitioner in her petition remains uncontroverted and that petitioner reasonably apprehends that she will not get logistic support in view of threat made by the opposite party and his men in order to contest the case and considering these as special circumstances involved in this case and also considering the fact that the petitioner is an unemployed lady and the distance involved between the two places is about 75 Kms in one way and that conveniences caused to a female in travelling to another place for pursuing a case alone, prayer made by the petitioner is allowed.

District Judge, Howrah is directed to withdraw Misc. Case No.41 of 2022 pending before the learned Additional District Judge, 4<sup>th</sup> Court, Howrah and to transmit the same to the Court of learned District Judge, Purba Medinipur at Tamluk within a period of three weeks from the date of communication of this order.

The Transferee Court shall serve fresh notice to both the parties intimating the next date of hearing before taking up further proceeding of the suit.

C.O. 2551 of 2022 accordingly disposed of.

Department is directed to send a copy of this order to the learned District Judge, Tamluk, Purba Medinipur and learned District Judge, Howrah immediately.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

**(Ajoy Kumar Mukherjee, J)**