

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRP(C) No. 64 of 2022

Prakash Tripathy

.....

Petitioner

Mr. S.K. Mahanty, Advocate.

Vs.

Mihir Panda

.....

Opposite Party

Mr. S. Dash, Advocate

CORAM:

JUSTICE SAVITRI RATHO

ORDER

07.09.2022

Order No.

05.

This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Mahanty, learned counsel for the petitioner and Mr. S. Dash, learned counsel for the Opp. Party.

3. This application under Section 24 of the C.P.C. has been filed by the petitioner praying for transfer of Guardian Misc. Case No.01 of 2021 filed by the opposite party, in the Court of the learned Civil Judge (Senior Division), Khallikote to the Court of the learned Civil Judge (Senior Division), Rajagangapur, Dist-Sundargarh.

4. Mr. Mahanty, learned counsel for the petitioner submits that after the death of the daughter of the petitioner on 04.09.2017, her minor son is residing with the petitioner and his wife and attending school and the case should have been filed where the child is residing. Copy of the money receipt of the school fees is annexed as Annexure-3. Copy of a medical

certificate annexed as Annexure-2 indicates that the petitioner is suffering from osteoarthritis and has difficulty in movement. He further submits that as the distance between Rajagangapur and Khallikote is more than 600 kms, it will be highly inconvenient for him to travel to Khalikote to contest the case there.

5. Mr. Dash, learned counsel for the opposite party objects to the prayer for transfer submitting that as an unnatural death (in short “U.D”) case had been registered after the death of his wife, the opposite party had been compelled to hand over custody of his minor son to the petitioner and his wife after executing an agreement. It had been agreed therein that he could take custody of his son at any time and with the hope of getting the custody of his son he has not re-married till date. He also submits that the Court at Khalikote has the jurisdiction to try the case and the opposite party is apprehensive of going to Rajagangapur on account of threats, for which the case should not be transferred there.

6. Considering the submissions of both counsels and keeping in mind the scope of Section 24 of the C.P.C. and the convenience and apprehensions of both the parties, instead of

transferring the case to the Court of the learned Civil Judge (Senior Division), Rajagangapur, Dist-Sundargarh, it is thought fit and expedient in the interest of justice to transfer the case to the Court of the learned Judge, Family Court, Sundargarh at Panposh, Rourkela.

7. The learned Civil Judge (Senior Division), Khallikote is requested to send the record of Misc. Case No.01 of 2021 (Mihir Panda vs. Prakash Tripathy) to the Court of learned Judge, Family Court, Sundargarh at Panposh, Rourkela by 23.09.2022. The parties are directed to appear in the said Court at Rourkela on 18.10.2022. It is made clear that the personal appearance of the parties should not be insisted upon unless absolutely necessary.

8. The TRP(C) is disposed of with the aforesaid observations.

9. Issue urgent certified copy as per rules.

10. Registry is directed to send a copy of this order to the Court of learned Civil Judge (Senior Division), Khallikote forthwith for compliance.

Sukanta

.....
(SAVITRI RATHO)
JUDGE