

Court No. 652

CO 11 of 2023

27.03.2023

(AD 275)

(S. Banerjee)

Smt. Sanghita Bhadra (Biswas)

Vs.

Sri Arnab Bhadra

Mr. Subhajit Chowdhury

... AoR of the petitioner

Affidavit of service filed by the petitioner is taken on record.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner/mother seeking transfer of Act VIII case no. 103 of 2022 under Section 25 of the Guardians and Wards Act, 1890 pending in the court of learned District Judge, Hooghly at Chinsurah to the court of learned Additional District Judge at Barrackpore.

The petitioner contended that the petitioner is the legally married wife of the opposite party and their marriage was solemnized on 12.03.2017 according to Hindu rites and customs and they are blessed with a female child who was born on 28.02.2019. The said child is presently under the care and custody of the petitioner. Petitioner further submits that after marriage she was subjected to physical and mental torture and ultimately she was compelled to leave her matrimonial

house along with the minor child and presently she is residing with the minor child at Kampa Senpara within the jurisdiction of Barrackpore Court. Petitioner further submits that another proceeding initiated by the petitioner claiming maintenance under Section 125 of the Code of Criminal Procedure is pending in the court of learned Additional Chief Judicial Magistrate, Barrackpore. All of a sudden the opposite party/husband has initiated the aforesaid proceeding seeking custody and guardianship of the ward which is now pending in the court of learned District Judge, Hooghly at Chinsurah. She submits that the court at Chinsurah situates at a distance of about 25 kilometers and she is facing lot of inconveniences in attending the said proceeding at Chinsurah. Accordingly, she has sought for aforesaid transfer.

Learned counsel on behalf of the opposite party submits that the distance between the two places is only about 15 to 20 kilometers and as such she should not face any inconvenience in attending the said proceeding at Chinsurah and accordingly the opposite party has prayed for dismissal of the application.

Having considered the facts and circumstances of the case and that the ward is residing with the petitioner mother within the jurisdiction of Barrackpore court and that Section 9(1) of the Guardians and Wards

Act, 1890 has created a specific territorial jurisdiction to deal with such cases and that another proceeding under Section 125 of the Code of Criminal Procedure is pending in the Barrackpore Court where the opposite party would be required to attend, the prayer made by the petitioner is justified and accordingly, such prayer is allowed.

Learned District Judge, Hooghly at Chinsurah is hereby directed to withdraw Act VIII case no. 103 of 2022 from the court of learned District Judge, Hooghly and to transmit the same to the court of learned District Judge, North 24 Parganas at Barasat within a period of three weeks who in turn will transmit the same to the court of learned Additional District Judge, Barrackpore having jurisdiction to try the same within a period of three weeks thereafter. The transferee court shall issue fresh notice upon both the parties intimating next date of hearing before proceeding further with the suit and will proceed from the stage where it reached till date.

Since affidavit in opposition has not been asked to file, the allegations leveled in the application against the opposite party deemed to have not admitted by the opposite party.

CO 11 of 2023 is accordingly disposed of.

Let copy of this order be sent to the learned District Judge, Hooghly at Chinsurah and the learned District Judge, North 24 Parganas at Barasat.

Learned court below is requested to make every endeavour for expeditious disposal of the pending proceeding.

(Ajoy Kumar Mukherjee, J.)