

S/L 201
16.02.2023
Court No.652
SD

CO 105 of 2023

Aloke Kumar Das, since deceased, represented by Smt.
Mousumi Das & Ors.

Vs.

Smt. Shyama Agarwal

Mr. Kushal Chatterjee

Mr. Shibjit Mitra

...for the Petitioners.

Mr. Shuvajit Bose

...for the Opposite Party.

Affidavit of service filed by the petitioners in Court today be kept with the record.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Ejectment Suit No.40 of 2016 from the Court of learned Civil Judge (Junior Division), 1st Court, at Sealdah to the Court of learned Civil Judge (Junior Division), 2nd Court, Sealdah.

The petitioners contended that the petitioners filed the aforesaid suit for ejectment in respect of a premises situates within the Entally Police Station, Kolkata-700014.

Learned court below i.e., Civil Judge (Junior Division), 1st Court, Sealdah by an order dated 14.01.2020 was pleased to call for a report from Serestadar as to whether the said court has territorial jurisdiction to try the said suit or not. It further appears that the serestadar has given a report dated 27.02.2020 that the learned Civil Judge (Junior Division), 1st Court, Sealdah has got no territorial jurisdiction to try the said suit. Accordingly, petitioners have sought for aforesaid transfer on the basis of the said report.

Learned counsel appearing on behalf of the opposite party submits that such prayer could have been made before the learned District Judge, Alipore and as such, he raised objection in respect of the said prayer.

Considered submissions made by the parties.

It is true that present prayer involves intra district transfer and as such the petitioners could have made the prayer before learned District Judge, South 24 Parganas at Alipore. However, since this court has also concurrent jurisdiction, considering the report as appearing in connection with the order dated 14.01.2020 in Ejectment Suit No.40 of 2016, I find that the prayer made by the petitioners is justified and hereby allowed.

Accordingly, learned District Judge, South 24 Parganas at Alipore is hereby directed to withdraw the Ejectment Suit No.40 of 2016 (Reg. No.316 of 2016) from the Court of learned Civil Judge (Junior Division), 1st Court, Sealdah and to transmit the case record to the Court of learned Civil Judge (Junior Division), 2nd Court, Sealdah within a period of three weeks from the date of communication of the order.

The transferee court shall give fresh notice intimating the next date of hearing to both the parties before taking up further proceeding of the suit and the transferee court shall proceed with the suit at the stage where it reached till date.

Department is directed to send a copy of this order to the learned District Judge, South 24 Parganas at Alipore immediately.

With these observations, C.O. 105 of 2023 is disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Ajoy Kumar Mukherjee, J.)