

28.3.2023  
276  
Ct. no. 652  
sb

**C.O. 169 of 2023**

**Sutapa Chakraborty**  
**Vs.**  
**Sandipan Chakraborty**

Mr. Saikat Chatterjee  
Md. Asder Rakib                      ...for the petitioner

Affidavit of service filed by the petitioner is taken on record. In spite of service, opposite party is not represented.

This is an application at the instance of the petitioner/mother under Section 24 of the Code of Civil Procedure seeking transfer of the Misc. Case no. 33 of 2022 presently pending before the court of learned District Judge, Purba Barddhaman to any court preferably to the court of learned District Judge, Paschim Barddhaman.

The petitioner contended that the petitioner was married with opposite party on 12.2.2011 and due to said wedlock, one male child was born on 3.5.2013 and the said child is always residing with the mother. The petitioner alleged that the opposite party never cared to look after her son and never provided day to day expenditure of the minor son to the petitioner. The petitioner states that she took all the trouble to meet the expenditure of her minor son and presently the said

ward is a student of Class IV at a school at Asansol in the district of Paschim Bardhaman. The matrimonial tie between the parties has been dissolved by a decree of mutual divorce.

All of a sudden, the opposite party has initiated aforesaid proceeding under Section 25 of the Guardians and Wards Act which is now pending in the court of learned District Judge, Purba Bardhaman. The petitioner submits that under the provision of Section 9 of the Guardian and Wards Act, 1890, the trial should be conducted by the court under whose jurisdiction the ward ordinarily resides. She further submits that the court at Asansol situates at a distance of about 120 kilometres from the petitioner's place of residence and presently the petitioner is facing lot of difficulties in attending the said proceeding by making a journey of five hours along with the child. Accordingly, the petitioner has prayed for aforesaid transfer.

In view of the aforesaid facts and circumstances of the case and that the ward ordinarily resides with the petitioner within the jurisdiction of the court of learned District Judge, Paschim Bardhaman and that Section 9(1) of the Guardian and Wards Act, 1890 have created specific territorial jurisdiction to try such proceedings and also considering the inconvenience faced by a female and her ward in travelling to reach the court at Purba

Barddhaman, the prayer made by the petitioner is allowed.

Learned District Judge, Purba Barddhaman is hereby directed to withdraw the Misc. Case no. 33 of 2022 from the court of learned District Judge, Purba Barddhaman and to transmit the same to the court of learned District Judge, Paschim Barddhaman at Asansol having jurisdiction to try the case within a period of three weeks from the date of communication of the order.

The transferee court shall serve fresh notice upon both the parties intimating the next date of hearing before proceeding further with the aforesaid case and will proceed from the stage where it reached till date.

Since no affidavit-in-opposition has been sought for from the opposite party, the allegations levelled against the husband/opposite party in the application, deemed to have not admitted by the opposite party.

The department is directed to send a copy of the order to the learned District Judge, Purba Barddhaman and learned District Judge, Paschim Barddhaman at Asansol immediately.

Accordingly, C.O. 169 of 2023 is disposed of.

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

**(Ajoy Kumar Mukherjee, J.)**