

22.06.2023
Sl. No.6(DL)
srm

C.O. No. 233 of 2023
Sri Prabir Kumar Mondal
Versus
Sri Raj Kumar Mandal & Ors.

Mr. Supratim Laha

...for the Petitioner.

Despite service on two occasions, none appears on behalf of the plaintiff/opposite party No.1. Affidavit-of-service is taken on record.

This is an application for transfer of Title Suit No.231 of 2022, which is pending before the learned Civil Judge (Senior Division), Katwa, Purba Bardhaman to Alipore Judges Court.

The plaintiff/opposite party No.1 has chosen to stay away from this proceeding. It is categorically submitted that other opposite parties Nos.2 to 15, who have been impleaded as defendants in the partition suit, have not contested the suit. That they have not filed any written statement in the learned court below. It is submitted that the ground for transfer is genuine.

The petitioner is 65 years old and is suffering from renal failure. Several documents with regard to the illness and treatment of the petitioner have been annexed. It is also on

record that the petitioner undergoes regular haemodialysis, thrice a week.

Thus, this Court is of the view that prayer for transfer is genuine and not based on any frivolous ground. The suit is pending before the learned Civil Judge (Senior Division), Katwa, Purba Bardhaman and the said court is around 146 kms. from Kolkata. The petitioner resides at Bosepukur. The petitioner has to undertake a journey of 300 kms. to and from his residence. The petitioner is neither in a position to travel comfortably by a local train nor by road. Such a long journey would be stressful and strenuous, considering the physical condition of the petitioner.

However, the convenience of the plaintiff/opposite party No.1 cannot be ignored and hence, this Court directs that the learned District Judge, Purba Bardhaman, shall transfer the Title Suit No.231 of 2022 pending before the learned Civil Judge (Senior Division), Katwa, Purba Bardhaman to the court of the learned District Judge, Howrah, and the learned District Judge, Howrah, shall assign the matter to the competent court, having jurisdiction to hear the suit.

This Court is of the opinion that the plaintiff can undertake a journey by a direct train from Katwa to Howrah Station which takes about 3 hours. Moreover, the plaintiff is

not before this Court to assert any inconvenience. Yet, this Court deems it fit to consider the convenience of the plaintiff as well and transfer the suit to a court which is more or less midway, and the plaintiff can reach the court by undertaking a single train journey. There are several direct trains. Whereas, the defendant/petitioner undergoes dialysis thrice a week and the other days in the week are spent in recuperating from the effect of such dialysis.

Let a copy of this order be communicated to the learned court below, immediately.

The transferee court shall issue notices to all the parties after receiving the file and fix the dates accordingly.

The revisional application is, thus, disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)