

S/L 271
23.3.2023
Court No.652
SD

CO 395 of 2023

Mousumi Mondal (Saha)
Vs.
Subhankar Saha

Mr. Siddhartha Sankar Mandal
Ms. Arunima Das Sharma

...for the Petitioner.

Affidavit of service filed by the petitioner in court today be kept with the record.

In spite of service, opposite party is not represented.

This is an application under Section 24 of the Code of Civil Procedure at the instance of the petitioner seeking transfer of Act VIII Case No.82 of 2022 from the Court of learned District Judge, Hooghly at Chinsurah to the Court of learned District Judge, Birbhum at Suri.

The petitioner contended that the petitioner was married with the opposite party according to Hindu rites and customs in the year 2014. The parties are blessed with a female child who is now aged about 6 years and residing with the petitioner/mother.

All of a sudden, the opposite party/father has filed aforesaid application seeking custody of the minor female and guardianship which is now pending in the Court at Chinsurah.

The petitioner alleged that sometimes in the year 2021, the petitioner along with her minor daughter was ousted from her matrimonial house and thereafter the petitioner and her minor daughter are residing at the mercy

of her old ailing parents at Rampurhat within Birbhum district. She further submits that the court at Chinsurah has got no jurisdiction to try the suit. Moreover, she has initiated two proceedings which are pending in the court at Rampurhat where the opposite party would be required to attend. The distance involved in between the petitioner's present place of residence and the court at Chinsurah is about 396 kms. and she is facing lot of difficulties in attending the said proceeding along with the minor child. Accordingly, she has sought for aforesaid transfer.

Having considered the facts and circumstances of the case and on the basis of unchallenged averment that the ward is residing with the petitioner at Rampurhat, Birbhum which is ward's ordinary place of residence and considering the provisions as laid down in Section 9(1) of the Guardians and Wards Act, 1890, the prayer made by the petitioner is allowed.

Accordingly, learned District Judge, Hooghly at Chinsurah is hereby directed to withdraw the Act VIII Case No.82 of 2022 from the Court of learned District Judge, Hooghly and to transmit the case record to the Court of learned District Judge, Birbhum at Suri 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 upon 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, Hooghly at Chinsurah as well as learned District Judge, Birbhum at suri immediately.

With these observations, C.O. 395 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.)