

C.O. 2416 OF 2022

Smt. Mamoni Das

Vs.

Sri Utpal Kumar Das

Mr. Ravi Kumar Dubey

... For the Petitioner

Mr. Sumon Chattopadhyay

Ms. Dhriti Das.

... For the Opposite
Party

Affidavit-in-opposition, filed by the opposite party,
is taken on record.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of Act VIII Miscellaneous Case No. 243 of 2019 which is pending before the court of learned Fast Track Court, 4th Bench at Barasat to the Court of learned Additional District Judge at Ghatal, Paschim Medinipore having jurisdiction.

The petitioner contended that the petitioner was married with the opposite party on 17th February, 2012 according to the Hindu rites and customs and the parties are blessed with a male child. The petitioner alleged that after some time the husband started torturing her both physically and mentally. It is further alleged that the husband did not take care of the said child nor paid any amount of maintenance, and as such, the petitioner had to take all responsibilities on her shoulder, being

supported by her father and her other family members. The petitioner further alleged that the minor son has been deprived of love and care of his father due to gross negligent act by her husband/opposite party. All of a sudden father/husband/opposite party has initiated aforesaid proceeding under Section 25 of the Guardians and Wards Act, 1890, which is now pending in the Barasat Court. The petitioner further contended that due to continuous harassment and cruelty inflicted by the husband towards the petitioner, she initiated a proceeding under the Protection of Women from Domestic Violence Act, 2005, which is pending before the Court at Additional Chief Judicial Magistrate, Ghatal, Paschim Medinipore where the opposite party would be required to attend. She further states that the husband has a stable source of income of his own being a business man and if the aforesaid prayer for transfer is allowed, he will not face any difficulty.

Learned counsel appearing on behalf of the opposite party has filed affidavit-in-opposition denying all material allegations made in this application and contended that the petitioner had left her matrimonial home at her sweet-will on 20th December, 2018 along with her minor child and thereby discontinued the child's further studies. He further contended that the opposite party/husband is always eager to maintain his son but due to vigil attitude of the petitioner/wife, the opposite

party/husband is debarred from taking proper care of his minor son. He further submitted that his father is a senior citizen and suffering from heart ailments and in case of transfer it would not be possible for the opposite party to attend the Court at Ghatal, Paschim Medinipore leaving his parents alone in the house, as there is no other person to look after his parents. Accordingly, he has prayed for dismissal of the aforesaid application.

Considering the submissions made by both the parties it appears that it is not in dispute in the present case that the ward is residing with his mother at present at Ghatal, Paschim Medinipore. Accordingly, the ward's ordinary place of residence presently is at Ghatal, Paschim Medinipore. Section 9(1) of Guardians and Wards Act has created jurisdiction of the Court competent to try such cases.

Considering the submissions made by both the parties and also considering the fact that the ward's present ordinary place of residence is at Ghatal, Paschim Medinipore, which Court has got the territorial jurisdiction to try the proceeding, the prayer made by the petitioner is allowed.

Learned District Judge, North 24-Parganas at Barasat is hereby directed to withdraw the Miscellaneous Case No.243 of 2019 pending before the learned Fast Track Court, 4th Bench at Barasat and to transmit the same to the Court of learned District Judge, Paschim

Medinipore within a period of three weeks from the date of communication of this order, who in turn will transfer the same to the Court of learned Additional District Judge, Ghatal, Paschim Medinipore having jurisdiction to try the same within a period of three weeks thereafter.

The transferee court shall serve a fresh notice upon both the parties before proceeding further with the case and the transferee court shall proceed from the stage where it reached till date.

Office

The department is directed to send a copy of this order to the learned District Judge, North 24-Parganas, Barasat and learned District Judge, Paschim Medinipore immediately.

The revisional application, **C.O. 2416 of 2022** is, accordingly, disposed of.

(Ajoy Kumar Mukherjee, J.)