

18.4.2023
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Ct. no. 652
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CO 2638 of 2022

Sri Balaram Santra
Vs.
Smt. Tanushree Ash & Ors.

Mr. Abhisekh Banerjee
Mr. Yashraj Roy ...for the petitioner

Mr. Suman Chakraborty ...for the O.P. nos. 2 to 4

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of pre-emption case being Misc. case no. 10 of 2019 from the court of learned Civil Judge (Junior Division), 2nd Court, Hooghly, at Chandernagore to a competent court in the district of Howrah.

The petitioner contended that the petitioner filed aforesaid case under Section 8 of the West Bengal Land Reforms Act, 1955 against the opposite party herein in the court at Chandernagore as the property in question situates within the jurisdiction of Chandernagore court. The petitioner submits that due to various reasons, the instant proceeding were adjourned on several occasions. He further submits that the petitioner is presently residing at Kona within the district of Howrah and it takes almost 3 and ½ hours to reach the court at Chandernagore from his present place of residence. The petitioner further submits that he has attained the age of

75 years and it has become very much difficult for him to attend at Chandernagore court by travelling through public transportation due to his ripe old age. The petitioner submits that he is very much eager to proceed with the said proceeding, which he had instituted at Chandernagore Court but due to long pendency of the case, it has gradually become inconvenient for him to attend the said proceeding at Chandernagore court. Accordingly, he has sought for aforesaid transfer.

Learned counsel for the opposite party nos. 2 to 4 submits that the opposite party no. 3 is aged about 82 years and the property situates within the jurisdiction of Chandernagore court and it would not be just and proper to transfer the case from Chandernagore to Howrah because court within the district of Howrah have no territorial jurisdiction to try the same. Accordingly, he has prayed for rejection of the aforesaid prayer.

Having considered the facts and circumstances of the case, it appears that the sole ground for transfer as set out in the application, is the old age of the petitioner. Section 8 of the West Bengal Land Reforms Act in its unequivocal terms have used the expression 'Munsif having territorial jurisdiction' as competent authority to entertain an application under Section 8 of the Act. When a statute fixes up jurisdiction of a particular court, then, only on the ground of petitioner's inconvenience, it may not be proper to transfer the case from the

jurisdiction of a court fixed by statute to a court situated outside the jurisdiction. On such score, I am not in a position to accept the argument advanced by petitioner in support of transfer. In view of what has been stated above, I am not inclined to allow the prayer for transfer made by the petitioner herein.

Accordingly, C.O. 2638 of 2022 is dismissed. However, this dismissal order will not preclude the petitioner from making prayer before the court below for recording evidence of the petitioner on commission under the relevant provision of law or from making prayer for his appearance through video conference and in the event of filing such application by the petitioner or in the event of filing any prayer by petitioner for exemption of his personal appearance, before the court below, learned court below will dispose of such application in accordance with law.

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

(Ajoy Kumar Mukherjee, J.)