

232 25.01.2023
NB Ct. 652

CO 3290 of 2022

Priyanka Baksi Das
Vs.
Niladri Das

Mr. Sobham Majumder,
Ms. Kalpita Paul.
...for the petitioner.

Mr. D. Banerjee,
Md. Abdur Rakib.
...for the OP.

Affidavit of service filed by the petitioner is taken on record.

This is an application under Section 24 of the Civil Procedure Code seeking transfer of Act VIII Misc. Case No.144 of 2015 presently pending before the Court of learned District Judge, North 24 Parganas to the Court of District Judge, Purba Medinipur at Tamluk.

The petitioner contended that the opposite party/husband has filed the aforesaid application under Section 25 of the Guardians and Wards Act, 1890 for interim custody of the minor daughter who was born due to wedlock. The petitioner's allegation is that she was driven out by the opposite party as well as by her in laws from her matrimonial home in the year 2014, when she was carrying. Since then, she is residing at her father's house at Mahishadal, Purba Medinipur.

The petitioner submits that she is an unemployed lady having no source of income and as such she has initiated a proceeding under Section 125 of the Code of Criminal

Procedure, which is pending at Haldia Court. Barasat Court situates at a distance of 123 kilometres from the house of the petitioner. The petitioner contended that she is a single lady and there is nobody to accompany her to attend Court at Barasat. Accordingly, she has sought for aforesaid transfer.

Learned counsel for the opposite party raised objection contending that the grounds for transfer are not sufficient and he also denied petitioner's allegation that she was driven out from her matrimonial house.

In the present case it is not in dispute that ward resides with the petitioner/mother within the jurisdiction of learned District Judge, Purba Medinipur, Tamluk. Section 9 of the Guardians and Wards Act deals with jurisdiction in such cases and considering the fact that the statute has specifically created a jurisdiction for the trial of such cases which is where the ward ordinarily resides, the prayer made by the petitioner is required to be allowed. Furthermore, the distance involved between the two places is about 123 kilometres and the petitioner contended that she is an unemployed lady and she has none to escort her in her way to Barasat Court. Considering all these, the prayer made by the petitioner is allowed.

Learned District Judge, North 24 Parganas at Barasat is hereby directed to withdraw Act VIII Misc. Case No.144 of 2015 from the Court of learned District Judge, North 24 Parganas at Barasat and to transmit the same to the Court of learned District Judge, Purba Medinipur at Tamluk within three weeks from the date of communication of the order, for disposal.

The transferee Court shall inform both the parties about the next date of hearing before proceeding further with the case and the transferee Court shall proceed at the stage where it reached till date.

The department is directed to send a copy of this order to the learned District Judge, North 24 Parganas at Barasat and the learned District Judge, Purba Medinipur at Tamluk.

C.O. 3290 of 2022 is accordingly disposed of.

Since the matter is pending from 2015, the transferee Court shall make every endeavour for expeditiously disposed of the said case and will conclude the entire proceeding preferably within a period of ten months from the date of communication of this order.

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.)