

23.3.2023
287
Ct. no. 652
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C.O. 3789 of 2022

Bijoy Krishna Hansda & Anr.
Vs.
Rakhal Karmakar & Anr.

Mr. Soumen Kumar Roy
Mr. Samar Barik ...for the petitioners

Mr. Tapas Kumar Sinha
Mr. Arunava Pati for the Opposite Parties

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

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of the Title Suit no. 67 of 2020 presently pending before the court of learned Civil Judge (Junior Division), 2nd Court, Khatra, Bankura to any competent court within the district of Paschim Midnapore.

The petitioner submits that the petitioners as plaintiffs filed the aforesaid suit as the subject matter of the property situates within the jurisdiction of Khatra court at Bankura. It is alleged by the petitioner/plaintiff that the opposite party no. 1 is very much adamant and influential person of the locality and on 9.11.2022 when the plaintiffs after attending the court, were returning to their local residence, they were vehemently restrained by an illegal and perverse activity of Respondent No. 1 and

they had lodged a complaint to that extent in the local police station and in respect of which a criminal case has already been started. The petitioner further submits that he is a senior citizen and he is suffering from various ailments and it has become very much difficult for the petitioner to travel to Khatra Sub-divisional court from his present residence at Howrah to deal with the aforesaid proceeding. Furthermore, the petitioner is apprehending any unwanted incident in view of the aforesaid happenings. The petitioner further submits that court at Khatra situates at a distance of about 250 kilometres from his present place of residence and as such they are facing lot of inconvenience in proceeding with the said suit and accordingly petitioners have sought for transfer of the said suit in a mid-point in between Khatra and Howrah which can be a court within the jurisdiction of Paschim Midnapore district.

Learned counsel for the opposite parties raised vehement objection and denied all allegations levelled against them. They further submit that Plaintiff/ Petitioner had chosen the forum as the subject matters situates within the jurisdiction of Khatra, Bankura and all the witnesses are also residing within the jurisdiction of Khatra area and as such they now cannot pray for transfer of the said proceeding. Accordingly, they have prayed for dismissal of the aforesaid application.

In view of the aforesaid facts and circumstances of the case and also in view of the alleged reported incident as appearing from written complaint dated 23rd November, 2022 and in respect of which Ranibagh police Station case no. 78 of 2022 dated 28.11.2022 has already been initiated, and considering reasonable apprehension in the mind of the petitioner/plaintiff about further unwanted incident, if the case is transferred from the court at Khatra to the court at Bankura Sadar, I find neither parties, nor the witnesses will face any difficulty in proceeding with the said suit.

In view of above, learned District Judge, Bankura is hereby directed to withdraw the Title Suit no. 67 of 2020 presently pending before the court of learned Civil Judge (Junior Division), 2nd Court, Khatra, Bankura and to transmit the same to any competent court at Bankura Sadar having jurisdiction to try the suit within a period of three weeks from the date of communication of the order.

The transferee court shall serve fresh notice upon both the parties intimating the next date of hearing before proceeding further with the aforesaid suit and will proceed from the stage where it reached till date.

Since no affidavit-in-opposition has been sought for from the opposite party, the allegations levelled against the husband/opposite party in the application, deemed to have not admitted by the opposite party.

The department is directed to send a copy of the order to the learned District Judge, Bankura immediately.

Accordingly, C.O. 3789 of 2022 is disposed of.

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.)