

04.09.2024
Item No.42 DL
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 2561 of 2023

Smt. Bulti Saha (Mondal)

-Vs-

Sri Dhiriti Ranjan Mondal

Mr. Tapas Kumar Ghosh,
Mr. Tanmay Chowdhury..for the applicant.

Affidavit of service filed on behalf of the applicant be
kept with the record.

None appears on behalf of the opposite party in spite
of service.

The parties to the instant application under Section 24
of the Code of Civil Procedure are husband and wife. They
have a minor son who is in the custody of the mother, the
applicant herein.

The father, the opposite party herein has initiated a
proceeding under the Guardians and Wards Act, 1890 for
custody of the said minor being Act VIII Case No. 27 of 2022.
The said proceeding is pending before the Court of the learned
District Judge, Paschim Bardhaman at Asansol.

The applicant, by the present application, is praying
withdrawal of the said proceeding from the said Court and
transfer of it to the Court of the learned District Judge, District-
Birbhum at Suri on the ground of pendency of the proceedings
for maintenance and a proceeding under Section 498A IPC
filed by her before the competent courts in Suri, District-
Birbhum.

The other ground on which such withdrawal and
transfer of the said proceeding for custody has been prayed for
is that the said minor is suffering from renal ailments, as such

the applicant would face immense inconvenience to go to Asansol and contest the said proceeding as the said Court is 160 kms away from her place of residence.

Section 9 of the said Act of 1890 mandates that an application in respect of the guardianship of a person of a minor shall be made to the District Judge having jurisdiction in the place where the minor ordinarily resides. In the present case, the minor is residing with the mother within the jurisdiction of the learned District Judge, District-Birbhum at Suri, therefore the proceeding for custody of the said minor must be transferred to the Court of the said learned District Judge, that apart, to avoid the unnecessary expenses and inconvenience of the parties, all pending proceedings between them should be brought in one place. The inconvenience alleged by the applicant in attending the Court at Asansol, in view of the ailment of the said minor and distance between her place of residence and the said place, also cannot be ruled out.

In the backdrop of the facts and circumstances as discussed above, the prayer of the applicant deserves to be allowed.

Therefore, let the records of the Act VIII Case No. 27 of 2022(*SRI DHIRITI RANJAN MONDAL vs. SMT. BULTI SAHA ALIAS MONDAL*) be withdrawn from the docket of **the learned District Judge, Paschim Bardhaman at Asansol** and be transferred to the **Court of the learned District Judge, District-Birbhum at Suri.**

The said learned District Judge, upon receipt of the records of the said proceeding, may either keep it in his own file or may transfer it to any Court under his Judgeship

competent to try and dispose of the said proceeding. The said proceeding, after transfer, shall proceed from the stage at which it has already reached.

The applicant shall communicate this order to the opposite party.

The department is directed to communicate this order immediately to the aforesaid two courts.

C.O. 2561 of 2023 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official website of the Court.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)