

17.02.2026
Item No. 2
Ct. No. 30
Aloke

C.O. 3278 of 2024

Smt. Aparna Ghosh & Ors.
Vs
Manjari Ghosh & Ors.

Mr. Dhiraj Kr. Trivedi, ld. Sr. Adv.
Mr. Bankim Pal
Mr. Bikash Kr. Singh
Mr. Swapna Jha

... for the petitioners

Mr. Dulal Dey
Mr. A. Jana

... for the opposite parties

1. The civil revision has been preferred praying for transfer of Title Suit No. 03 of 2023 from the Court of learned Civil Judge (Junior Division), 2nd Court, Rampurhat at Birbhum to the Court of learned Chief Judge, City Civil Court at Calcutta.

2. It is the case of the petitioners that the opposite parties/plaintiffs have filed Title Suit No. 03 of 2023 pending before the learned Civil Judge (Junior Division), 2nd Court at Rampurhat, Birbhum against the petitioners/defendants inter alia praying for declaration that the plaintiffs/opposite parties are the owners of the property situated at District-Birbhum, Thana-Nalhati, Mouza-Nalhati, J.L. No. 53.

3. The suit has proceeded to the stage of framing of issues.

4. The petitioners pray for transfer of the suit on the ground that the petitioner no. 1 is an aged lady aged about 78 years and is suffering from cancer and the petitioner no. 2 is also a cancer survivor and is undergoing treatment for her ailment and are permanent residents of Kolkata. The petitioner no. 3 is at present residing at Bangalore with her husband and son and travels to Kolkata frequently for defending the above suit filed by the opposite parties.

5. It is further stated that the petitioner nos. 1 and 2 due to their ailments are unable to travel to the Court of the learned Civil Judge (Junior Division), 2nd Court at Rampurhat, Birbhum and as such the petitioner no. 3 has to frequently travel to Rampurhat as and when required for effectively defending the above suit. The petitioners being ladies, it is very difficult for the petitioners to travel for a distance of 270 and 2000 kilometers to defend the above suit/proceedings.

6. It is further stated that the opposite party no. 6, being one of the plaintiffs in the above suit is a practicing Advocate of Rampurhat Court and due to his influence two learned Advocates appointed by the petitioners in the past have recused themselves from the suit on behalf of the petitioners and as such it is becoming very difficult for the petitioners to defend the above suit.

7. The defendants/petitioners also submit that there is a threat perception when they go to defend the suit at Rampurhat.

8. Written notes have been filed by both the parties.

9. The petitioners have stated their case in the written notes and have relied upon the following judgments:-

(i) Rajani Kishor Pardeshi vs Kishor Babulal Pardeshi, (2005) 12 SCC 237;

(ii) Sapna Agarwal vs Om Prakash Jalan, (2008) 17 SCC 602;

(iii) Ketan Kantilal Seth vs State of Gujarat & Ors., 2023 SCC OnLine SC 917;

(iv) Daljit Singh vs State of Punjab & Ors., 2025 SCC OnLine P & H 7692;

10. On the other hand, the opposite parties in their written notes have denied the case of the petitioners.

11. It is further stated that the petitioner no. 3 is ready and willing to travel from Bangalore to Kolkata, but is unwilling to travel from Kolkata to Rampurhat.

12. It is further stated that petitioner nos. 1 and 2 have executed a power of attorney in favour of the petitioner no. 3 and their case is being conducted through a lawyer in Rampurhat.

13. It is further stated that witnesses in the case are residing at Rampurhat and their inconvenience is also to be kept in mind.

14. The case of the witnesses being at Rampurhat has been countered by the learned counsel for the writ petitioners by stating that the total case is dependent on a gift deed and the principal witness in this case is a formal witness being an office bearer of the District Registrar's office who is to produce the records/volume to prove the gift deed and, as such, no inconvenience will be faced by the defendants.

15. It is further stated that the petitioner's contention of threat perception is totally false, even though a case has been lodged at the local police station against the opposite party no. 6 who is admittedly an Advocate at Rampurhat Court.

16. The fact that opposite party no. 6 is an Advocate at Rampurhat Court is not denied. The opposite party relies upon the judgment of the Supreme Court in ***Prasanna Kasini vs. The State of Telangana & Anr., in Criminal Appeal No. of 2026 (@ SLP (Crl.) No. 7038 of 2025), decided on January 06, 2026,*** wherein the Supreme Court held that merely because a relative is working in the District Court, apprehension of threat or the Advocate being influenced is not the criteria for considering a case for transfer. The

Supreme Court in the said case directed the parties seeking transfer to appear **through a counsel or by video conferencing** and, as such, transfer of the case herein shall cause inconvenience and hardship to the person who resides at Rampurhat.

17. The property in question being at Rampurhat. The District Registrar's offices being in the said district and all other related witnesses connected to the gift deed being at Birbhum, transferring the case will cause severe inconvenience to the parties.

18. It appears from the materials on record that the petitioner no. 3 is aged about 61 years and the petitioner no. 2 is aged about 63 years. Admittedly, the petitioner no. 2 resides in Kolkata and at present is admittedly a cancer survivor and thus has prima facie recovered. The petitioner no. 3 resides at Bangalore but has prayed for transfer of the case on the ground that she has to travel all the way from Bangalore to Kolkata and then from Kolkata to Rampurhat to defend the case.

19. Considering all these factors, this Court finds that the facility of appearing through video conference is always available to the petitioners herein **(Prasanna Kasini vs. The State of Telangana & Anr. (Supra))**.

20. Considering that the suit relates to property in District Birbhum, the plaintiffs residing at

Birbhum, admittedly the witnesses are also of that place including the District Sub Registrar who is also at Birbhum, this Court keeping in mind the **balance of convenience and inconvenience** of transfer of the case herein, is of the view that the transfer in such a case will not meet the interest of justice.

21. The prayer for transfer is thus rejected with liberty granted to the petitioners to pray for appear and depose through video conferencing/or by way of commission.

22. The learned trial Court shall be at liberty to permit such appearance through video conferencing/commission, if prayed for.

23. **C.O. 3278 of 2024 is accordingly disposed of.**

24. There will be no order as to costs.

25. Connected application, if any, stands disposed of.

26. Interim order, if any, stands vacated.

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

(Shampa Dutt (Paul), J.)