

Ct. 30.6
No. 2022
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C.O. 1025 of 2022

**Smt. Guriya Devi
-Versus-
Santosh Thakur**

**Mr. Munshi Ashiq Elahi
Mr. Md Sahidullah Mridha** **...For the Petitioner**

Affidavit-of-service on behalf of the petitioner in Court today be kept on record.

It appears that despite service of notice upon him there is no representation on behalf of the opposite party.

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of one Act VIII Case No. 05 of 2022 from the Court of the learned District Judge at Asansol, Paschim Bardhaman to the Court of the learned District Judge, South 24-Parganas at Alipore.

It is stated by the petitioner, Smt. Guriya Devi that her marriage with the opposite party, Santosh Thakur was solemnized in the year 2009 in the Bengali month of 'Baisakh'. Their marriage was duly consummated. Out of her wedlock with the opposite party, she gave birth two sons, namely, Ankit Thakur in the year 2011 and Amit Thakur in the year 2013.

Be it note that the opposite party filed a matrimonial suit seeking dissolution of their marriage and obtained ex parte decree of divorce. As against the decree passed ex parte, the petitioner has filed an application under Order IX Rule 13 of the Code of Civil Procedure seeking setting aside the ex parte decree of divorce.

The petitioner states that because of compelling circumstances she had to leave her matrimonial home and started residing at her parental home at Kolkata. Both the

sons of the petitioner are studying in Schools at Kolkata.

The petitioner has filed a maintenance case under Section 125 of the Criminal Procedure Code seeking maintenance allowance for her minor children and for herself and the said maintenance case is now pending in the Court of the learned Judicial Magistrate at Alipore.

The opposite party has brought the aforesaid Act VIII case against her in the Court of the learned District Judge at Asansol in order to harass her. It will be hardship for her to appear before the learned District Judge at Asansol to participate in the proceeding of the Act VIII case. Hence, the prayer.

The maintenance case brought by the petitioner is pending before a Court of a learned Judicial Magistrate at Alipore. The children of the petitioner are now studying in the Schools at Kolkata.

Having heard the learned Counsel appearing for the petitioner and considering the totality of the circumstances I think it will be wise to withdraw the aforesaid Act VIII case from the Court of the learned District Judge at Asansol, Paschim Bardhaman and transfer the said Act VIII case to the Court of the learned District Judge, South 24-Parganas at Alipore.

In view of the above, the revisional application is allowed.

Let the Act VIII case No. 05 of 2022 be withdrawn from the Court of the learned District Judge at Asansol, Paschim Bardhaman and the said Act VIII case be transferred to the Court of the learned District Judge, South

24-Parganas at Alipore for disposal.

Learned District Judge, South 24-Parganas at Alipore may dispose of the Act VIII Case either himself/herself or transfer the suit to any of the Courts of learned Additional District Judge at the station.

The learned District Judge at Asansol, Paschim Bardhaman is directed to transmit the case record of the Act VIII Case No. 05 of 2022 to the transferee Court immediately after receipt of a copy of the order.

With the aforesaid direction, C.O. 1025 of 2022 stands disposed of.

There will, however, be no order as to costs.

Let a copy of this order be communicated to both the Courts below for information and compliance.

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

(Rabindranath Samanta, J.)