

In the court of Principal Judge, Family Court, Madhepura

Presiding Officer- Shri Digvijay Kumar

Guardianship Case No. 02/2024 (C.I.S. No. 01/2024)

Abhay Bhattacharya-----DH/applicant.

Vs.

Sanchita Chatarji-----JD/respondent.

08.04.2026

DH (decree holder/applicant/ Abhay Bhattacharya) is present in person along with his counsel. None for JD (judgment debtor/ respondent/ Sanchita Chatarji). JD is absent. The present execution application has been filed in the light of order passed in Miscellaneous (child custody) Suit no. 20/2022, in custody suit case, DH has been given custody of his minor son Shreyash Bhattacharya. In the present matter, it is admitted fact that the minor son (Shreyash Bhattacharya) is in custody of his mother/natural guardian, Sanchita Chatarji, and ordinarily resides in District Alipurduar, West Bengal. During previous hearing, this court sought a clarification from Id. Counsel for the DH that for execution of the present decree/ final order, why DH has not preferred to pursue the execution application before the Court of competent jurisdiction and at the place where the minor child is residing with his mother, has admittedly that place does not fall within the territorial jurisdiction of this Court. On query by this Court, the DH is ferociously submitting before this Court that the JD and her father are people of bad conduct and if the DH would peruse the execution application at Alipurduar, West Bengal, he would be murdered. It is also submitted by DH that whatever order Court wants to pass, may pass. Heard, fixed the matter in Post Lunch Session at 2:00 p.m. for passing of further, appropriate, detailed order.

Dictated

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Principal Judge,
Family Court, Madhepura.

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Continued
2:00 p.m.

None for DH and none for JD. Record perused, the sole issue before the Court is that if the Court has appropriate territorial jurisdiction to execute the final order. Before ensuing the details of statutory provisions, it is mentioned that though this Court has jurisdiction to execute the decree, but considering the special fact that the present decree is to resume the custody of a minor son who is ordinarily resides at Alipurduar, which does not fall within the jurisdiction of this Court.

Here, it is worthy to mention Section 9(3) of Guardianship and Wards Act, 1890, according to the provision of (3), Court within whose jurisdiction such minor ordinarily resides, gets the jurisdiction to entertain the application. This Court refrains itself from writing any more on the issue of territorial jurisdiction while entertaining the present application because indeed this Court has got jurisdiction over the subject matter though may not be territorial.

✓ The present case is an execution matter so, it is worthy to go through Section 39 of C.P.C. which says about transfer of decree which is as under:-

“ if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other court,”

From the above mentioned provision, it is apparent that minor child is in custody of his mother/ natural guardian/JD, who resides outside the territorial jurisdiction of this Court.

In the light of above admitted facts and legal provisions, this Court directs the office to prepare transfer order so that the final order and decree may be transferred to Family Court of Alipurduar, West Bengal for execution and DH is directed to take appropriate steps accordingly for the transfer of the same. matter is adjourned sine die, as and when the final execution outcome is received

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from the Family Court, Alipurduar, West Bengal. For office purposes, the matter is kept pending, otherwise sine die adjournment.

Dictated



Principal Judge,
Family Court, Madhepura.