

Act VIII 27/2021
CNR no.WBHG01-001131-2021

Order no.36 dated 20.12.2024

Both sides file hazira through their learned Advocates.

The instant case record is placed before me for passing necessary order in pursuance of one petition filed on behalf of the O.P Subhra Dey (Das) on dated 24.05.2024 supported by affidavit.

Copy was served upon the petitioner/father Biswajit Dey and who filed written objection thereof, also one affidavit.

The learned Advocate for the O.P moving the petition submits that the O.P on 01.11.2017 had filed a case under PWDV Act before the learned ACJM, Ghatal, Purba Midnapur lodging domestic violence upon her by the husband. On 01.08.2020, one FIR was lodged against the husband and a case u/s 498A/406 IPC was started and the said case is still pending before the said court at Ghatal.

As the child resides with her mother within the jurisdiction of ACJM, Ghatal, the present child custody case is not maintainable before this learned court. Therefore, the instant case should be dismissed for want of proper jurisdiction.

Per contra the learned Advocate appearing for the petitioner Biswajit Dey argued that the instant petition is frivolous, vexatious and has no legs to stand upon. It is misconceived and speculative one. The minor girl Samvi Dey was a permanent resident of Malakarpara within the jurisdiction of Arambagh P.S since her birth. The present custody of the minor ward at P.S. Chandrakona within the district of Paschim Midnapore is forceful and temporary. This learned court has ample jurisdiction to try this case. The learned Advocate relied upon the case decision of Ruchi Majoo Vs. Sanjeev Majoo AIR 2011 SC 1952 in support of her submission. In the end, the learned Advocate prayed for straight rejection of the petition on hand.

Now, let us deal with and dispose of the matter under reference.

This is an admitted position that the minor daughter is now living with her o.p mother Suvra Dey under P.S. Chandrakona, District Paschim Midnapore. It is equally admitted position on record that the petitioner father Biswajit Dey is living at Malakarpara under P.S Arambagh, district Hooghly. The instant case has been filed by the petitioner father against his O.P wife. Mentioning the above address in the cause title, the case was filed by the petitioner father.

In a case involving custody of a minor, the duty of the court should be more onerous. It is a settled legal position that the concept of forum convenience has no place in the wardship jurisdiction. The welfare of the child is the only consideration. Collecting the wisdom on the subject of jurisdiction from the case decision of Ruchi Majoo as relied by the petitioner, I find no legal basis in the petition filed by the side of O.P questioning the jurisdiction point. This learned court has certainly all the proper jurisdiction to try the instant case.

Consequently, the petition filed by the O.P challenging the jurisdiction of this learned court stands rejected on contest. The petition dated 24.05.2024 is disposed of.

To 28.01.2025 for P.W evidence in the case.

Dictated & corrected by me

Sd/-
Additional District Judge,
1st ADJ. Chinsurah
J.O Code WB00753

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Additional District Judge,
1st Court, Chinsurah.
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