

Date of hearing: 11.3.2013.

Order

Petitioners, Rukhsana Shaheen widow of Inamullah Khan, her son and daughter (minors), have applied for transfer of the pending proceedings from the Courts of Senior Civil Judge Lakki Marwat and Civil Judge-V, Lakki Marwat. In the former case a petition under Section 12(2), CPC has been filed by the petitioner, seeking reversal of the decree obtained from the Guardian Judge with regard to the person and property of the minors allegedly through misrepresentation and fraud while in Suit No. 18/Guardian of 2006 they have applied for transfer because she being a widow has permanently settled at Peshawar with her minor kids and because all the respondents being desperate and highly influential persons, are posing potential threats to her life and she cannot even imagine to personally appear before the Courts at Lakki Marwat.

2. The respondents were issued notices on 28.1.2013 while proceedings before both the Courts at Lakki Marwat were suspended, however, on 25.2.2013 none turned up from the respondents' side because notices issued to them were not returned.

3. Today, calls were made several times. All the respondents are real brothers, sister & mother inter se and are residing in the same house as well as village and they have been served through Respondent No. 1, Raza Ullah, who has given undertaking that he would inform each of the respondents accordingly about the date of hearing i.e. of today.

3-A. By now it almost 2:50 pm but neither anyone from them appeared nor their counsel, if any. The report of the Process Server is placed on record.

4. The law on the subject of providing shelter, refuge and protection to a female is more generous as we find in different law books like Family Court Rules, Guardian & Wards Act & Rules and similar other enactment where it is directed that cases should be tried normally at the place where the female is permanently residing.

5. Now-a-days, Lakki Marwat is otherwise a volatile place because of militancy and even a male member cannot dare to go there from Peshawar without carrying a fear in his mind of being done to death in a suicide attack being the order of the day. Besides, there is a long distance between Peshawar and Lakki Marwat which can be covered within 4 to 5 hours and when allegations of fraud & misrepresentation have been made against the respondents in both the cases, then, that must have set the alarm bell to ring and the potential threat to the life of petitioner, as alleged by her, is not based on hollow allegations.

Accordingly, this petition is admitted & allowed and both the above mentioned cases are hereby directed to be transferred to Peshawar and be entrusted to learned Senior Civil Judge at Peshawar or any other Civil Judge of sufficient experience by the learned District & Sessions Judge Peshawar who shall monitor the progress of these cases, however, the transferee Court shall first serve the respondents with fresh notices before proceeding further in the case. Both the Courts at Lakki Marwat and the learned Sessions Judge Peshawar be informed.

(R.A.) Petition allowed