

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**TRANSFER PETITION(C)NO. 211 OF 2008**

**BIBHA SINHA & ORS.**

**Petitioner(s)**

**VERSUS**

**SURENDRA PRASAD SINHA**

**Respondent(s)**

**ORDER**

In this transfer petition, a ground has been taken with regard to the jurisdiction of the High Court of Delhi in entertaining the suit, since the immovable properties forming the subject matter of the suit are situated in the State of Bihar. This, as has been very rightly pointed out on behalf of the respondent, is a question which cannot be and should not be decided in a transfer petition since there are specific provisions in the Code of Civil Procedure, which govern such matters. In fact, according to the petitioners, the case is covered by Section 16(d) of the Code of Civil Procedure. This question can be raised before the trial court for a decision and we are informed that such a question has been raised.

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Since the question of jurisdiction goes to the very root of the matter, we would request the High Court to frame a preliminary issue with regard to the

question of jurisdiction and to decide the same before proceeding with the suit itself.

The Transfer Petition is, accordingly, dismissed.

There will be no order as to costs.

.....J.  
(ALTAMAS KABIR)

.....J.  
(MARKANDEY KATJU)

NEW DELHI;  
September 29, 2008.

SUPREME COURT OF INDIA



JUDGMENT