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T.P.(C) No. 205-206 OF 2003

ITEM No.205

Court No. 1

SECTION XVIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

TRANSFER PETITION (C) NOS. 205-206/2003

RAVINDER SINGH NEGI & ORS.

Petitioner (s)

VERSUS

VIRENDER SINGH NEGI & ANR.

Respondent (s)

( With Appln(s). for stay and exemption from filing O.T. )  
( With Office Report )  
( For final disposal )

Date : 10/12/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE OF INDIA

HON'BLE MR. JUSTICE G.P. MATHUR

HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Petitioner (s)

Mr. B.B. Sinha, Adv.

Mr. R.C. Verma, Adv.

Mr. R.P. Agrawal, Adv.

Ms. Jyoti Saxena, Adv.

For Respondent (s) Mr. Sanjay Kumar Singh, Adv.

Mr. M.P. Shorawala, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Transfer Petitions are allowed in terms of the signed order.

Sukhwinder( Radha Bhatia)

Court Master

(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION(C) NOS. 205-206 OF 2003

Ravinder Singh Negi & Ors.... Petitioner(S)

vs.

Virender Singh Negi & Anr.... Respondent(s)

O R D E R

These Transfer Petitions under Section 25 CPC have been filed seeking transfer of two suits being O.S. No. 628/2002 (Virender Singh Negi & Anr. v. Ravindra Singh Negi & Ors.) and O.S.No. 672/2002 (Virender Singh Negi & Ors. v. Ravindra Singh Negi) pending in the Court of Civil Judge (Sr.Division) Dehradun in Uttranchal to the Court of District Judge, Ghaziabad, U.P.

Virender Singh Negi and Col. Narendra Singh Negi have filed O.S. No. 628/2002 against the petitioners - Ravindra Singh Negi, Mohit Negi and Smt. Kamlesh Negi seeking a decree for permanent injunction against the defendants from causing any interference in the peaceful possession and occupation of the plaintiffs and defendant No.4, over the plaint scheduled property which is a residential house bearing No. 11A, Cement Road, Dehradun. O.S. No. 672/2002 has been filed by Virender Singh Negi and Col. Narendra Singh Negi against the petitioner No. 1 Ravindra Singh Negi praying that a decree for injunction be granted directing the defendant to vacate the plaint scheduled property (Old No. 11A, Cement Road, Dehradun) and to deliver the vacant possession of the same to the plaintiffs. A further prayer has been made for awarding damages at the rate of Rs. 500/- P.M. from the date of filing of the suit till the date of delivery of possession. It is averred in the transfer petition that Virender Singh Negi and Narendra Singh Negi are real brothers and they are cousins of Surendra Singh Negi. Rajendra Singh Negi and Shaileendra Singh Negi are sons of Surendra Singh Negi aforesaid and both of them are practising lawyers at Dehradun. Narendra Singh Negi has executed a power of attorney in favour of Rajendra Singh Negi. It is further averred that the two brothers, namely, Rajendra Singh Negi and Shaileendra Singh Negi are prominent advocates of Dehradun and they hold strong influence on other members of the Dehradun Bar. A civil litigation was commenced by Ravindra Singh Negi against the petitioners in the year 1999 and apprehending that he would not get justice at Dehradun, petitioner No.1 filed a transfer petition being Civil Misc. Transfer Application No. 222 of 1999 in the Allahabad High Court seeking transfer of the case to any place outside Dehradun. In the said petition, notice was issued and a stay order was passed which was extended till further orders on 01.08.2000. However, on account of re-organisation of State of U.P., the said Transfer Petition was rendered infructuous as Dehradun ceased to be a part of State of U.P. and went outside the territorial jurisdiction of Allahabad High Court. Since the petitioners are facing difficulty in prosecuting the Civil Suits at Dehradun on account of personal influence of the two advocate brothers they filed Transfer Petitions being Transfer Applications No. 9 and 10 of 2002 before the Uttranchal High Court in which report of the District Judge was called for but ultimately the petitions were dismissed on 18.02.2003.

We have heard learned counsel for the petitioners at length and have perused the record. No one has appeared on behalf of the respondents. In the counter affidavit filed on behalf of respondent Nos. 1 and 2, the fact that Narendra Singh Negi has executed a power of attorney in favour of Rajendra Singh Negi is not disputed nor the factum of their relationship is challenged.

From the averments made in the Transfer Petition, it does appear that the petitioners are facing some problem on account of the fact the two lawyers namely Rajendra Singh Negi and Shaileendra Singh Negi are exercising some influence and are taking extra interest on account of execution of power of attorney in favour of one of them by one of the plaintiffs in the suit. We, therefore, consider it in the interest of justice that the two suits may be transferred to a place outside Dehradun.

Though in the Transfer Petition, a prayer has been made to transfer the suits to Ghaziabad but we consider it proper that the same may be transferred to a neighbouring District which is not far away from Dehradun so that the parties are not inconvenienced. Learned counsel for the petitioners has suggested that the suits be transferred to Muzaffarnagar which is in the State of U.P. and is also close to Dehradun.

The Transfer Petition is accordingly allowed and O.S. No. 628/2002 (Virender Singh Negi vs. Ravindra Singh Negi & Ors.) and O.S. No. 672/2002 (Virender Singh Negi & Ors. v. Ravindra Singh Negi & Ors.) are transferred to the Court of District Judge, Muzaffarnagar. The District Judge, Muzaffarnagar may assign the suits to any other Court within his jurisdiction which may be competent to try and decide the suits.

.....C.J.I.

.....J.

( G.P. MATHUR )

.....J.  
( P.P. NAOLEKAR )

New Delhi,  
December 10, 2004.