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T.P.(C) No. 227 OF 2003
ITEM No.44

Court No. 3

SECTION XVIA
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Transfer Petition.(Civil) No.227/2003

SHIVANI YADAV

Petitioner (s)

VERSUS

VIJAY YADAV

Respondent (s)

(With Appln(s). for stay and Office Report)

With

T.P.(C) No.328/2003]

[SHIVANI YADAV VS. VIJAY YADAV]

(With appln. for stay)

T.P.(C) No.312/2003

[VIJAY YADAV VS. SHIVANI YADAV]

(With appln. for stay and office report)

T.P.(Crl.) No.85/2003

[VIJAY YADAV VS. SHIVANI YADAV]

(With appln. for stay)

Date : 03/02/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI

HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s)Mr. Yatendra Sharma, Adv.
in TP 227/03 & 328/03Ms. V.D. Khanna, Adv.
Mr. Sarvesh Sharma, Adv.
(also for respondent in TP 312 & TP 85/03)

For Respondent (s)Mr. U.N. Bachawat, Sr. Adv.
in TP 227 & 328/03Mr. Ranbir Yadav, Adv.
Mr. Suresh Gupta, Adv.
Mr. Alok Bachawat, Adv.
Mr. H.M. Singh, Adv.
Mr. Lakshmi Raman Singh, Adv.
(also for petitioner in TP 312 & TP 85/03)

UPON hearing counsel the Court made the following

O R D E R

All the transfer petitions stand disposed of in terms of the signed order. The parties through their respective counsel are directed to appear before the Court of District and Sessions Judge, Delhi on 15th March, 2004.

KALYANI

(RADHA R. BHATIA)

COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE.)

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (C) NO. 227 OF 2003

SHIVANI YADAV

.....

PETITIONER (S)

VERSUS

VIJAY YADAV

.....

RESPONDENT (S)

WITH
TRANSFER PETITION (CRL.) NO. 85 OF 2003

VIJAY YADAV

.....

PETITIONER (S)

VERSUS

SHIVANI YADAV

.....

RESPONDENT (S)

TRANSFER PETITION (C) NO. 312 OF 2003

VIJAY YADAV

.....

PETITIONER (S)

VERSUS

SHIVANI YADAV

.....

RESPONDENT (S)

AND
TRANSFER PETITION (C) NO. 227 OF 2003

SHIVANI YADAV

.....

PETITIONER (S)

VERSUS

VIJAY YADAV

.....

RESPONDENT (S)

O R D E R

The parties are Hindu spouses. The marriage between them was performed according to Hindu rites and ceremonies on 7th November, 2000 at Pataudi, Haryana. Unfortunately, the two have fallen apart. The marriage has broken down. There is a spate of litigations between the two. Four of them are as under:-

1. Suit No. 225/2002 - Vijay Yadav Vs. Shivani Yadav
Suit for damages.
2. Maintenance Petition No. 33 of 2003 - Shivani Yadav Vs. Vijay Yadav
A petition under Section 125 Cr.P.C. In the Court of ACJM, Etah, U.P.
3. Civil Petition No. 34 of 2003 - Shivani Yadav Vs. Vijay Yadav
A petition under Section 18 of Hindu Adoption and Maintenance Act, 1956 in the Court of Civil Judge, Sr. Division, Etah, U.P.
4. HMA No. 216 of 2002 - Vijay Yadav Vs. Shivani Yadav
A petition seeking dissolution of marriage by a decree of divorce under Section 13(1)(ia) and (v) of the Hindu Marriage Act, 1955.

There are four transfer petitions filed relating to items (1) to (4) above and respectively registered as T.P. (C) No. 227 of 2003, T.P. (Crl.) No. 85 of 2003, T.P. (C) NO. 312 OF 2003 and T.P. (C) NO. 328 OF 2003. While the wife seeks the transfer of proceedings from the Courts at Delhi to the Courts at Etah, U.P., the husband seeks the transfer of proceeding pending in the Courts at Etah, U.P. to the Courts at Delhi. During the pendency of these proceedings efforts at conciliation were made but failed. Today the parties are present in-person. We have heard the learned counsel for the parties as also the parties appearing in-person.

On a review and assessment of the totality of the facts and circumstances of the case but without expressing any opinion on the allegations and counter allegations made by parties against each other which are sub-judice in the main proceedings pending before the Trial Courts, we have formed an opinion that all the proceedings deserve to be heard and decided at one place and to this extent the parties too do not appear to have any objection. The core issue is as to the situs of the forum - whether Delhi or Etah, U.P. and the learned counsel for the parties pointed out at the Bar several factors which would be of relevance to the Court for choosing the appropriate forum. Indeed the possibility was tried to be explored out if any district headquarters other than Etah and Delhi would suit the convenience of both the parties and also take care of the apprehensions which the two parties have expressed against each other. The parties have not agreed and at the end we have formed an opinion that Delhi would be the most appropriate place for trial of all disputes between the parties. Accordingly, all the transfer petitions are allowed. All the matters pending between the parties are directed to be transferred and placed before the District and Sessions Judge, Delhi on 15.3.2004.

All the courts before which the four matters abovesaid are pending shall, soon on communication of this order, transfer the record of proceedings to the Court of District and Sessions Judge, Delhi. The District and Sessions Judge, Delhi may either try the cases himself or make over the same for hearing and decision according to law to a Court of competent jurisdiction subordinate to him. The civil suits shall be placed before one Judge at Delhi exercising civil jurisdiction. The proceedings under Section 125 Cr.P.C. shall be made over to a Court of competent jurisdiction with instructions for hearing to be taken up as far as practicable on the same date on which the civil suits are listed for hearing so that the parties may have the convenience of attending the Courts on one date.

Though the husband stated that the wife has her relations at Delhi but the wife disputed the availability of any close relation at Delhi. Be that as it may, Vijay Yadav, the husband present in-person has assured, rather undertook that he would bear the expenses of his wife and one accompanying for travelling to and from and staying at Delhi for attending on the dates of hearing. The quantum of the expenses shall be in the discretions of the trial Court.

All the transfer petitions stand disposed of in the abovesaid terms. The parties through their respective counsel, are directed to appear before the Court of District and Sessions Judge,

Delhi on 15th March, 2004.

.....J
(R.C. LAHOTI)

.....J
(ASHOK BHAN)

NEW DELHI;
FEBRUARY 03, 2004.