

ITEM NO.52

COURT NO.3

SECTION XVIA

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(s). 426 OF 2013

BHAVIKA BHARTI

Petitioner(s)

VERSUS

NAKUL MAHAJAN

Respondent(s)

(With appln(s) for stay and office report )

Date: 01/11/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s)

Mr. Harish Khanna, Adv.  
Mr. Rajinder Mathur, Adv.

For Respondent(s)

Mr. Aseem Kumar Sawhney, Adv.  
Mr. Dharmendra Kumar Sinha, Adv.

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

Learned counsel for the respondent places before us a copy of the order dated 19.10.2009 in Transfer Petition (Civil) No. 1343 of 2008 titled "Anita Kushwaha Vs. Pushap Sudan". The order dated 19.10.2009 passed in that case reads as under :-

"This petition involves the question relating to the power of this Court to transfer a case from the State of Jammu & Kashmir to out side the said State. Having regard to the issues involved the matter is referred to a larger Bench. Place the matter before the Hon'ble Chief Justice of India for appropriate orders."

2. The present Transfer Petition has been filed by the petitioner-wife seeking transfer of the matrimonial case being Divorce Petition No. 573 of 2013 from the Court of the Additional District Judge (Matrimonial Cases), Jammu to the Family Court, District Court Tis Hazari, Delhi. This Transfer Petition also involves the question relating to the power of this Court to transfer a case from a Court in the State of Jammu & Kashmir to out side that State. This issue has already been referred to a larger Bench as noted above.

3. Learned counsel for the petitioner, however, submits that in Transfer Petition (Criminal) No. 228 of 2008 titled "Parveena & Ors. Vs. Syed Mohd Syeed & Ors." a three Judge Bench of this Court on April 25, 2012 transferred the case pending before High Court of Jammu & Kashmir to the Allahabd High Court for final disposal.

4. We have read the order dated April 25, 2012 passed in

Transfer Petition (Criminal) No. 228 of 2008 and on complete reading of that order, we find that the order does not consider the question relating to the power of this Court to transfer a case from the State of Jammu & Kashmir to out side that State although the matter has been transferred.

5. Be that as it may, let the instant Transfer Petition be placed before Hon'ble the Chief Justice of India for appropriate orders for consideration of this matter by a larger Bench along with Transfer Petition (Civil) No. 1343 of 2008 titled "Anita Kushwaha Vs. Pushap Sudan".

6. In the meanwhile, interim order passed by this Court on 05.04.2013 shall continue.

|(Rajesh Dham)  
|Court Master

| |(Renu Diwan)  
| |Court Master

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