

:
T.P.(C) No. 548 OF 2004
ITEM No.11 + 12

Court No. 5

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.548/2004

KUM KUM JAIN

Petitioner (s)

VERSUS

RAJESH KUMAR JAIN
(With Appln(s). for stay)

Respondent (s)

With

T.P. (Civil) No. 550 of 2004
(With appln. for stay and office report)

Date : 17/01/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA
HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s)Mr. B.S.Rajesh Agrajit, Adv.
in both T.Ps.Mr. Y.K.Prasad, Adv.
Mr. S.K.Bhadwar, Adv.
Mr. Sanjay K.Pathak, Adv.
Mr. Varinder Kumar,Adv.

For sole Respondent
in both T.Ps. Mr. Manoj Prasad,Adv.

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

The Transfer Petitions are allowed in terms of the signed order.

Anita

(Gyan Bhatia)
Court Master

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. 548 OF 2004

KUM KUM JAIN

...

Petitioner

Versus

RAJESH KUMAR JAIN

...

Respondent

WITH

TRANSFER PETITION (CIVIL) NO. 550 OF 2004

KUM KUM JAIN

...

Petitioner

Versus

RAJESH KUMAR JAIN

...

Respondent

O R D E R

Heard parties.

These are wife's Petitions for transfer of Suit No. 50 of 2002 titled Rajesh Kumar Jain vs. Kum Kum Jain and Suit No. 215 of 2002 titled Rajesh Kumar Jain vs. Kum Kum Jain from the Family Court, Haridwar, U.P. to the Court of District Judge, New Delhi.

The Petitioner contends that she has no independent source of income and she is totally dependent on her father who is not keeping good health. She also states that she has a small child who is studying in a public school in Delhi and it is not possible for her to leave the child. On the last occasion it was seriously disputed that the child was studying in Delhi. We, therefore, directed the Petitioner to produce a certificate from the School to show that the child is studying in Delhi. The required certificate is now produced from the head of Queen Mary's School, Model Town, Delhi which indicates that the child is studying in Class III in this School.

The petition is still being opposed by the Respondent now on the ground that the claim that father's health is not good is not correct. It is submitted that it will be convenient for the lady to come to Haridwar. We see no substance in these submissions. The Petitioner cannot leave a small child. It would be more convenient for the husband to come to Delhi in order to prosecute the proceedings.

We, therefore, allow the Transfer Petitions. Suit Nos. 50 of 2002 and 215 of 2002 are transferred from the Family Court, Haridwar, U.P. to the District Judge, Delhi who shall either hear them himself or assign them to some other court of competent jurisdiction for disposal.

.....J.

(S.N. Variava)

.....J.

(H.K.Sema)

New Delhi,
January 17, 2005.