

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

TA No.670 of 2014 (O&M).
Date of Decision: 09.12.2015.

Menka Rani @ Suman Garg

....Petitioner.

VERSUS

Raj Kumari and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. P.K.S. Phoolka, Advocate for the petitioner.

Mr. Ashutosh, Advocate for respondents No.1 and 5.

Service of respondents No.2 and 3 was dispensed with vide order dated 28.08.2015.

Mr. Pawan Kumar Longia, Advocate for respondent No.4.

SNEH PRASHAR, J.

This application under Section 24 of the Code of Civil Procedure was filed by petitioner Menka Rani @ Suman Garg seeking transfer of the petition under Section 372 of the Indian Succession Act, 1925 (for short, "the Act of 1925") filed by respondent No.1-Raj Kumari, from the Court of Additional Civil Judge (Senior Division), Panchkula to the Court of competent jurisdiction at Bathinda.

The submissions made by Mr. P.K.S. Phoolka, learned counsel representing the petitioner, Mr. Ashutosh, learned counsel for respondents

No.1 and 5 and Mr. Pawan Kumari Longia, learned counsel representing respondent No.4 have been heard.

It is submitted by learned counsel for the petitioner that Tarsem Chand (husband of the petitioner) died on 11.02.2014. He is survived by his wife (petitioner), two minor sons namely, Kunal Garg and Mohit Garg as well as respondents No.1 and 5 namely Raj Kumari (mother) and Krishan Garg (father). After the death of Tarsem Chand, the petitioner alongwith her minor children was thrown out of the matrimonial home. Respondent No.1 Raj Kumari instituted a petition under Section 372 of the Act of 1925 at Panchkula for grant of Succession certificate for the estate left by Tarsem Chand, whereas she (respondent No.1) herself is residing at Zirakpur, District Mohali and the deceased was having his business at Zirakpur. Submitting that the petitioner is a poor lady and has no source of income and alongwith her minor children is residing at the mercy of her parents at Bathinda, learned counsel sought transfer of the petition to Bathinda.

Learned counsel for respondents No.1 and 5 resisted the application on the ground that on 05.12.2011 a will was executed by deceased Tarsem Chand in favour of respondents No.1 and 5 and his two minor children and the extract of the will reveals that the will was executed at Panchkula and that the petitioner and her deceased husband as well as the respondents last resided together at Panchkula. The award in claim petition No.MACP/0000468/13 was also passed by the Motor Accident Claims Tribunal at Panchkula.

Admittedly, the petitioner is a widow and has two minor

children. She alongwith her children is residing with her parents at Bathinda. As submitted by her she has no independent source of income and is dependant on her parents. The distance between Bathinda and Panchkula is about 250 kilometers. It will indeed be inconvenient/difficult for her to leave the children and go to Panchkula to attend the hearings or to take the children with her and travel such long distance. Expenditure on travelling will also be an unnecessary burden on her.

Accordingly, considering all facts, the petition filed by respondent No.1 under Section 372 of the Act of 1925 pending in the Court of learned Additional Civil Judge (Senior Division), Panchkula is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Bathinda. The file shall be sent by the trial court to the District and Sessions Judge, Bathinda within two weeks from the date of receipt of copy of this order, who will entrust the same to the Court of competent jurisdiction at Bathinda.

The parties are directed to appear before the District and Sessions Judge, Bathinda on 15.01.2016.

(SNEH PRASHAR)
JUDGE

09.12.2015.
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