

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CO No. 2 of 2016 (O&M)

Date of Decision: 27.08.2016

Jyoti Gupta

.....PETITIONER

VERSUS

Madison Nicole Mortan

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

PRESENT: None.

AUGUSTINE GEORGE MASIH, J.

Request for International Judicial assistance pursuant to the Hague Convention of 18th March, 1970 on the taking of evidence abroad in Civil or Commercial matters was addressed to The Ministry of Law and Justice, Department of Legal Affairs, New Delhi from Mr. William F. Rivard Kimberly A. Kardasz, Harvey Kruse, P.C. 1050 Wilshire Drive, Suit 320 Troy, Michigan with reference to Case No. 14-144230-NI Jyoti Gupta vs. Madison Nicole Morton, which relates to the claim made by the plaintiff Jyoti Gupta regarding injury including psychological injuries following a motor vehicle accident on June 3, 2014. The defence is that the defendant believes that there are pre-existing psychological problems of the claimant and the same are not related to motor vehicle accident in question. The evidence, which is to be obtained, is with regard to any and all psychiatric or psychological medical records concerning the claimant Jyoti Gupta. The

identity and address of the persons to be examined are Arora Clinic,

Hoshiarpur, Punjab, 146001 India, Bharaj Life Care Hospital & Trauma Center Jalandhar Rd. Hoshiarpur-146001 India and Emergency Ward Civil Hospital Kamalpur Hoshiarpur, Punjab, 146001 India. The request is only for records i.e. copies of all medical records concerning psychiatric or psychological treatment of claimant Jyoti Gupta. The declaration to be signed by the individual(s) responding for each hospital/medical facility has been obtained along with the request, which has to be completed. The photocopies of the documents are requested along with a declaration and the requested documents have to be provided by each of the three medical facilities. The requesting judicial authority is Oakland County Circuit Court, Pontiac, Michigan, United States of America.

On receipt of the above request, The Ministry of Law and Justice, Department of Legal Affairs (Judicial Section), Shastri Bhawan, New Delhi through the Assistant Legal Advisor, Government of India (Judl.), vide letter dated 22.03.2016, has addressed a letter to The Registrar, High Court of Punjab and Haryana, Chandigarh, forwarding the request from Oakland County Circuit Court, Pontiac, Michigan, United States of America for taking of evidence abroad in civil or commercial matters as per a convention and for sending two copies of request for international Judicial Assistance forms, in pursuance of which and keeping in view the provisions of the Hague Convention and the Code of Civil Procedure, the same has been treated as Civil Original Petition.

The provisions for Commission issued by the Foreign Courts and the procedure thereof are provided for in Section 78 and Order 26 Rules 19 to 22 of the Civil Procedure Code, 1908.

On perusal of the request, as referred to above, dated

06.01.2016, this Court is satisfied that the Oakland County Circuit Court, Pontiac, Michigan, United States of America situated in foreign country, which is to obtain evidence in a civil dispute of responsible persons of Arora Clinic, Hoshiarpur, Punjab, 146001 India, Bharaj Life Care Hospital & Trauma Center Jalandhar Rd. Hoshiarpur-146001 India and Emergency Ward Civil Hospital Kamalpur Hoshiarpur, Punjab, 146001 India located within the territorial jurisdiction of this Court and also to peruse and obtain photocopies of the documents mentioned in Clauses 11 and 13 of the Letter of Request. Thus, in terms of the powers enshrined in Order 26 Rules 20 (a) and 21 of the Code of Civil Procedure, this Court deems it appropriate to appoint the Chief Judicial Magistrate, Hoshiarpur as Commission for the purpose of recording and obtaining evidence and to peruse and obtain documents contained in Clauses 11, 12 and 13 of the letter of request.

Registry is directed to issue warrant of Commission in the name of Sh. Harsimranjit Singh, Chief Judicial Magistrate, Hoshiarpur forthwith. The Registry shall append all the necessary papers filed in this petition with a copy of this order with the warrant of Commission. The Commission shall serve an advance notice to Arora Clinic, Hoshiarpur, Punjab, 146001 India, Bharaj Life Care Hospital & Trauma Center Jalandhar Rd. Hoshiarpur-146001 India and Emergency Ward Civil Hospital Kamalpur Hoshiarpur, Punjab, 146001 India of his visit to enable them to arrange the relevant documents as mentioned in Clauses 11, 12 and 13 of the letter of request to submit the records/photocopies of documents along with the declaration as per the format mentioned in Clause 12 of the letter of request.

The Commission is directed to return the evidence so collected

in a sealed cover to the Registrar (Judicial) of this High Court within a period of four weeks from the date of receipt of the warrant of Commission, who shall then forward it to the Ministry of Law and Justice, Department of Legal Affairs (Judicial Section), Shastri Bhawan, New Delhi along with the letter of request for transmission to the concerned foreign Court/person.

No costs.

Ordered accordingly.

August 27, 2016

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**