

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

**TA No.440 of 2020 (O&M)
Date of decision: 05.08.2022**

Jaspreet Kaur and another

....Petitioners

Versus

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Raj Kaushik, Advocate
for the petitioners.

Mr. D.K. Singal, Advocate
for respondent Non.4.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the proceedings filed under Section 34 of the Arbitration and Conciliation Act, pending in the Additional District & Sessions Judge, Fatehgarh Sahib to the competent Court of jurisdiction at Patiala.

Counsel for the petitioners has argued that the area involved in this case is identical and the land in dispute in the present case is also part of the same litigation.

Counsel for the petitioners has argued that petitions filed by other claimants/landowners stand allowed vide order dated 14.10.2021 passed in TA-191-2021 and other connected cases, by making the following observations: -

“...Keeping in view the aforesaid facts, it is considered appropriate to transfer the objections to the Court of competent jurisdiction in the district in which the acquired land is located. This order has been passed keeping in

view the fact that the owners who stand deprived of their land will get a sufficient opportunity for proper adjudication of their claims with regard to appropriate compensation.

While passing this order, this Court has not adjudicated upon the territorial jurisdiction of any particular Court to entertain the objection petition. It is expected that the transferee Court shall take a holistic view of the matter keeping in view the controversy involved. These proceedings are being transferred in order to enable the Court to do substantive justice...”

In the aforesaid order, it is held by this Court that as per policy dated 11.10.2021, issued by the National Highway Authority of India, the petitions will be transferred to the Court within the jurisdiction, where the land is situated.

Counsel for the petitioners has relied upon the judgments **“Sumita Singh vs Kumar Sanjay”**, 2002 SC 396 and **“Rajani Kishor Pardeshi vs Kishor Babulal Pardeshi”**, 2005(12) SCC 237, wherein the Hon’ble Supreme Court has observed that *while deciding the transfer application, the Courts are required to give more weightage and consideration to the convenience of the female litigants and transfer of legal proceedings from one Court to another should ordinarily be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.”*

Counsel for the petitioners has also relied upon the

judgment “***N.C.V. Aishwarya vs A.S. Saravana Karthik Sha,***” 2022

Live Law (SC) 627, wherein the Hon’ble Supreme Court has observed as under:-

9. The cardinal principle for exercise of power under section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

Counsel for the respondent has not disputed the factual position.

After hearing the counsel for the parties, considering the fact that the petitioners will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. ***Sumita Singh’s case (supra)***, ***Rajani Kishor Pardeshi’s case (supra)*** and ***N.C.V. Aishwarya’s case (supra)*** passed by the Hon’ble Supreme Court, this Court deem it appropriate to allow the present petition, subject to the following conditions:-

1. The proceedings filed under Section 34 of the Arbitration

and Conciliation Act, pending before the Additional District & Sessions Judge, Fatehgarh Sahib will be transferred to the competent Court of jurisdiction at Patiala.

- 2. The District Judge, Patiala, will assign the said proceedings to the competent Court of jurisdiction.*
- 3. The Additional District & Sessions Judge, Fatehgarh Sahib is directed to transfer all the record pertaining to the aforesaid case to District Judge, Patiala.*
- 4. The parties are directed to appear before the trial Court, Patiala, within a period of 01 month from today.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

05.08.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No