

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

TA 1018/2022

Date of decision: 02.12.2022

Suman Devi**.....Petitioner****Vs.****Neelam and others****.....Respondents****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Rajender Kumar, Advocate for the petitioner.
Mr. Parminder Singh, Advocate for the respondents 1 & 2.

Nidhi Gupta, J.

Petitioner-Suman Devi by way of present Transfer Petition under Section 24 read with Section 151 CPC seeks transfer of Civil suit No.612 of 2016 titled as 'Suman v Neelam and other' from the court of Civil Judge (SD) Karnal to a Court of competent jurisdiction at Sonipat.

Learned counsel for the petitioner submits that petitioner is Nanad of respondent no.1 and sister of respondent no.2-Balram Singh, husband of respondent no.1. Her father - Ranbir Singh, during his lifetime, suffered a decree in favour of petitioner in respect of a house constructed over the land, detailed in head note of the plaint (Annexure A-1) vide judgment and decree dated 29.7.2013 passed by Civil judge (Jr. Div.) Karnal. It is case of the petitioner that she is exclusive and absolute owner in possession of land

measuring 77 kanals 3 marlas over which the said house has been constructed. On the basis of the said judgment and decree, mutation no.1687 was also sanctioned on 26.11.2013. Further, father of the petitioner also obtained an electricity connection in the ear 1989-90. It is alleged by the petitioner that her brother and bhabhi - respondents 1 and 2 hatched a criminal conspiracy to grab the said house and land by way of Transfer Deed No.8187/1 dated 13.1.2016 based on false, forged and fabricated documents and the said suit property now stands transferred in favour of respondent no.1. Upon this, petitioner made a complaint to the police. The matter was investigated and FIR No.238 dated 23.3.2022 under Sections 420,406,467,468,471,120-B IPC came to be registered at PS Sadar Karnal and Balram Singh-respondent no.2, brother of the petitioner was arrested in connection with the said FIR. The said criminal case is pending in the courts at Karnal. It is alleged that brother of the petitioner was granted bail by the Court concerned at the insistence of office bearers of the District Bar Association, Karnal to take a lenient view, the accused being a practicing Advocate at Karnal. With these averments, petitioner seeks transfer of the suit, mentioned in opening para of this order on the following grounds: -

- (i) that her husband is suffering from paralysis and unable to accompany her from North Delhi to Karnal which are 103 kilometers apart.
- (ii) That brother of the petitioner is practicing lawyer in district court Karnal and therefore, possibility of his influencing outcome of the said suit is not ruled out.
- (iii) that petitioner who is totally disturbed due to all this, would be harassed emotionally and mentally if she has to contest the case at Karnal.

Upon notice, respondent 1 and 2 have put in appearance and filed their written statement in Court today, which is taken on record.

Learned counsel for the respondents refers to the averments made in the written statement to submit that the civil suit, transfer of which is sought from Karnal to Sonipat, is at the last stage as only one DW remains to be examined. The petitioner has already sold the suit property (house/plot) vide agreement to sell dated 19.2.2016 to one Gurvinder Singh for a total sale consideration of Rs.74,52,000/-. Said Gurvinder Singh filed a suit for specific performance with possession of the suit property and the said suit was decreed by the Presiding Officer, National Lok Adalat, Karnal vide judgment and decree dated 18.9.2020. In the execution proceedings thereof, the respondents have instituted third party objections, which are pending adjudication in the Civil Court, Karnal (Annexure R-1). In another suit titled 'Neelam v SDO UHBVNL' for mandatory injunction directing SDO, UHBVNL to restore the electricity supply to the property in dispute, the petitioner has been impleaded as a party upon her application under Order 1 Rule 10 CPC, also before the Civil Judge, Karnal (Annexure R3). Petitioner is also facing proceedings in an application under Order 39 rule 2A titled 'Neelam etc. v Suman Devi' in the Civil Court at Karnal (Annexure R2); besides her instituting another petition under Section 156(3) Cr.PC wherein she has already examined 8 witnesses in her preliminary evidence and the said complaint is now pending consideration for 7.1.2023, also before Civil Judge, Karnal (Annexure R4). It is further submitted that an application moved by respondents for clubbing of all these proceedings stands allowed vide order dated 17.2.2022 passed by District Judge, Karnal. In this background it is alleged that petitioner, by way of present transfer petition has very conveniently tried to separate all cases which are now pending together, so that her misdeeds may not be exposed.

When confronted, learned counsel for the petitioner has neither been able to refute the averments made in the written statement nor explain as to why petitioner seeks transfer only of Civil suit No.612 of 2016 titled as 'Suman v Neelam

and other’ from the court of Civil Judge (SD) Karnal to a Court of competent jurisdiction at Sonipat, while multiple proceedings concerning the suit property and between the parties are already pending; being attended to by the petitioner; and ordered to be clubbed together, at Karnal. This silence on the part of the petitioner amounts to concealment of material facts disentitling her for the relief sought in the present transfer petition.

In view of the facts enumerated above, in my considered view, this is not a fit case for transfer of the suit, as prayed for by the petitioner in this transfer petition. Hence the same is hereby dismissed.

(Nidhi Gupta)
Judge

02.12.2022
Joshi

Whether speaking/reasoned	Yes
Whether reportable	Yes/No