

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

T.A. No. 52 of 2021 (O&M)

DATE OF DECISION :- July 04, 2023

Kusum Devi

...Applicant

Versus

Mukesh Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Devender Kumar, Advocate for the applicant.

Mr. Kartik Khicher, Advocate for

Mr. Baljeet Beniwal, Advocate for respondents.

1. By way of filing the present application, applicant Kusum Devi, who is defendant in the civil suit filed by Mukesh Kumar respondent in this application seeks transfer of that civil suit from the Court of Civil Judge, Junior Division, Hodal, District, Palwal to the Court of competent jurisdiction at Panchkula.

2. According to the applicant, respondent Mukesh Kumar is elder brother of her husband. The husband of the applicant had met with an accident on 2.11.2012 suffering serious injuries. The applicant along with her minor son were turned out of the matrimonial home. The applicant had borne all the expenses for treatment of her husband but out of greed Mukesh Kumar has filed suit for mandatory injunction against the present applicant seeking amount of Rs.25 lakhs said to have been spent by him towards treatment of husband of applicant; the applicant has to travel a distance of 340 kms to attend the dates of hearing. She is a female and is to look after a

minor son, therefore, she feels difficulty to attend the dates of hearing, therefore, case be transferred to the Court at Panchkula.

3. The application is resisted by both the respondents contending that Mukesh Kumar is taking care of his brother, who is in Comma and is unable to perform any work, therefore, it would be difficult for Mukesh Kumar to travel from Hodal to Panchkula to attend the dates of hearing in case the suit is transferred from Hodal to the Court of competent jurisdiction at Panchkula.

4. After hearing the rival contentions I find that no case for transfer of the suit is made out. The comparative hardship shall be much more for respondent No. 1 Mukesh Kumar who is taking care of his brother who is said to be disabled physically and mentally unable to take care of himself. Further more it is a civil suit and personal appearance of applicant is not required on each and every date of hearing. She can appear there through counsel or any other agent.

5. No ground is made out to allow the application. The application is dismissed accordingly.

(H.S. MADAAN)
JUDGE

July 04, 2023

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No