

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(214)

TA-153-2020 (O&M)
Date of decision: 05.10.2023

Preeti Sharma and others

....Petitioners

Vs.

Sarla Devi M Indoria and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Balram Prashar, Advocate for the petitioners.

Mr. Karan Nehra, Advocate for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

CM-1193-CII-2023

For the reasons stated in the application, same is allowed and
Annexures P-18 & P-19 are taken on record.

CM stands disposed of.

TA-453-2020

Prayer in this petition is for transfer of Civil Suit No.19 of
2020 dated 08.01.2020 titled as Smt. Sarla Devi M. Indoria Vs. Preeti
Sharma and others, pending before the Civil Judge (Jr. Divn.), Amloh,
District Fatehgarh Sahib to the competent Court of jurisdiction at Faridabad.

Learned counsel for the petitioners has argued that marriage of
petitioner No.1 Preeti Sharma was solemnized with late Kamal Kant

Indoria, son of respondent No.1 Sarla Devi M Indoria and out of the said wedlock, two children/petitioners No.2 & 3 were born, who are minor and are residing in care and custody of petitioner No.1. It is further submitted that after death of husband of petitioner No.1, she filed a petition under Section 276 of the Indian Succession Act for grant of probate of Will/Letter of Administration of Will dated 27.09.2019, which is pending before the competent Court of jurisdiction at Faridabad (Annexure P-8) and in the meantime, the respondents also filed the aforesaid civil suit for declaration, which is pending before the Court of Civil Judge (Jr. Divn.), Amloh and since the matter in issue in both the cases is same, the suit filed by the respondents be transferred from Amloh, District Fatehgarh Sahib to Faridabad.

Learned counsel has relied upon a judgment of the Hon'ble Supreme Court in **Nirmala Devi Vs. Arun Kumar Gupta and others, 2005 (12) SCC 505**, wherein it is held that where two similar proceedings are pending, these should be clubbed and decided together.

Similar is the view taken by the Hon'ble Supreme Court in **Balbir Singh Wasu Vs. Lakhbir Singh and others, 2005 (12) SCC 503**.

Learned counsel for respondent No.2 could not dispute the factual position.

However, it is a matter of fact that respondent No.1 has not opted to appear, despite the fact that this transfer application is pending for the last about 03 years i.e. 2020 and proceedings before the trial Court are

adjourned, is itself a notice to respondent No.1.

After hearing learned counsel for the parties and considering aforesaid facts and circumstances of the case, this Court deem it appropriate to allow the present petition, subject to the following conditions:-

- 1. The Civil Suit No.19 of 2020 dated 08.01.2020 titled as Smt. Sarla Devi M. Indoria Vs. Preeti Sharma and others, pending before the Civil Judge (Jr. Divn.), Amloh, District Fatehgarh Sahib will be transferred to the competent Court of jurisdiction at Faridabad.*
- 2. The District Judge, Faridabad will assign the said petition to the same Court, where the petition under Section 276 of the Indian Succession Act filed by the petitioners is pending.*
- 3. The Civil Judge (Jr. Divn.), Amloh, District Fatehgarh Sahib is directed to transfer all the record pertaining to the aforesaid case to District Judge, Faridabad.*
- 4. The parties are directed to appear before the District Judge, Faridabad within a period of 01 month from today.*
- 5. The Court concerned, where the litigations between the parties are pending, will accommodate them with one date in one calender month.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

05.10.2023
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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No