

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

**TA No.1181 of 2023 (O&M)
Date of decision: 14.09.2023**

Monika Rani
.....Petitioner
Versus
Raj Kumar & Anr.
.....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Krishan Sharma, Advocate
for the petitioner.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 34 of the Specific Relief Act, pending in the Court of Civil Judge (Sr. Division), Barnala to the competent Court of jurisdiction at Moga.

Counsel for the petitioner has inter alia contended that the petitioner was married to one Shiv Kumar and a male child namely Ragha was born in the year 2016, who is living in the care and custody of the petitioner at Moga.

Counsel for the petitioner has submitted that unfortunately the husband of the petitioner had died on 12.11.2022 and thereafter, the in-laws of the petitioner (respondents herein) had entered into a compromise/agreement with the petitioner on 28.04.2023, vide which it was settled that the respondents will pay a lump-sum amount of Rs.10,05,500/- and the petitioner will waive off her rights towards the movable and immovable property of her in-laws.

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Counsel for the petitioner has further submitted that the cheques which were given in lieu of the settlement were dishonoured and thus, the petitioner has been forced to file two complaints under Section 138 of the Negotiable Instruments Act against the brother-in-law Raj Kumar and Vinod Kumar, which are also pending at Moga.

Counsel for the petitioner has argued that the respondents, who are the real brothers of deceased husband of the petitioner, have filed a suit for declaration that the compromise dated 28.04.2023 is a result of fraud. It is further contended that the suit has been filed just as a counter-blast to the complaints filed under Section 138 of the Negotiable Instruments Act and is nothing but a ploy to oust the petitioner as well as her minor son.

Counsel for the petitioner has further submitted that though the petitioner has received the summons but she has not put in appearance as it is difficult for the petitioner to engage a counsel and defend a case along with her minor son at Moga, as even her minor son is studying in D.N. Model Senior School, Moga.

After hearing the counsel for the petitioner, considering the fact that issuance of notice to the respondent has the consequences of staying further proceedings before the trial Court, otherwise the petitioner/wife will have to bear the litigation expenses and transportation expenses and in case, notice of motion is issued, even the respondents have to bear the litigation expenses and in view of the submissions made by counsel for the petitioner, this Court deem it

appropriate to allow the present petition, subject to the following conditions:-

- 1. The petition filed under Section 34 of the Specific Relief Act, pending before the Court of Civil Judge (Sr. Division), Barnala will be transferred to the competent Court of jurisdiction at Moga.*
- 2. The District Judge, Moga, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Civil Judge (Sr. Division), Barnala is directed to transfer all the record pertaining to the aforesaid case to District Judge, Moga.*
- 4. The parties are directed to appear before the trial Court, Moga, within a period of 01 month from today.*
- 5. The Civil Judge (Sr. Division), Moga will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.*
- 6. The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

14.09.2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No