



2023:DHC:8408



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 22.11.2023

(17)+ TR.P.(C.) 136/2023 & CM APPL. 44395/2023

UPINDER KAUR MALHOTRA Petitioner
Through: Mr.Basab Sengupta &
Ms.Nandini Sen, Advs.
versus
CAPT TEGHJEET SINGH MALHOTRA AND ANR
..... Respondents
Through: Ms.Gauri Gupta, Adv.

(18)+ TR.P.(C.) 137/2023 & CM APPL. 44396/2023

UPINDER KAUR MALHOTRA Petitioner
Through: Mr.Basab Sengupta &
Ms.Nandini Sen, Advs.
versus
CAPT TEGHJEET SINGH MALHOTRA Respondent
Through: Ms.Gauri Gupta, Adv.

(19)+ TR.P.(C.) 138/2023 & CM APPL. 44415/2023

UPINDER KAUR MALHOTRA Petitioner
Through: Mr.Basab Sengupta &
Ms.Nandini Sen, Advs.
versus
SQN LDR TEGHJEET SINGH MALHOTRA Respondent
Through: Ms.Gauri Gupta, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

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1. These petitions have been filed seeking transfer of HMA No. 596/2019, titled as ***Upinder Kaur Malhotra v. Capt. Teghjeet Singh Malhotra & Another***; HAMA No. 06/2019, titled as ***Mrs. Upinder Kaur Malhotra v. Capt. Teghjeet Singh Malhotra***; and HMA No. 211/2019, titled as ***Sqn. Ldr. Teghjeet Singh Malhotra v. Upinder Kaur Malhotra***, from the Court of the learned Family Judge, Patiala House Courts, New Delhi (hereinafter referred to as the 'Family Court') to any other Court of appropriate and competent jurisdiction.
2. The transfer of the above petitions is sought on account of some alleged remarks having been made by the learned Judge in the course of the hearing on 08.12.2022 and 01.03.2023. The learned counsel for the petitioner submits that these remarks have led to formation of an opinion of the petitioner that she may not be able to get justice from the said Court.
3. Placing reliance on the judgment of the King's Bench Division in ***The King v. Sussex Justices***, (1924) 1 KB 256, the learned counsel for the petitioner submits that Justice must not only be done, but must also appear to be done. He submits that considering the remarks that have been made against her counsel, the petitioner has a reasonable apprehension in mind that she would not get justice in the Court where the above proceedings are pending. He submits that this would be a sufficient ground for transferring the above matters to another Court. He submits that such apprehension may or may not be adequately founded on facts, but once the litigant expresses the same, this Court should transfer the matters. In support, he places reliance on the judgment of the Supreme Court in ***Kulwinder Kaur Alia Kulwinder***

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Gurcharan Singh v. Kandi Friends Education Trust and Others,
(2008) 3 SCC 659.

4. On the other hand, the learned counsel for the respondent submits that the present petitions have been filed merely to cause delay in the adjudication of the matters that are pending consideration before the learned Family Court. She submits that there is absolutely no ground for any apprehension in the mind of the petitioner that she would not get justice in the said Court. She submits that, in fact, the respondent has been playing delaying tactics before the learned Family Court, as is evident from the Court orders dated 24.04.2023 and 06.07.2023.

5. I have considered the submissions made by the learned counsels for the parties.

6. While there is absolutely no doubt in the legal proposition that Justice must not only be done, but also appear to be done, and where a party has a reasonable doubt that such a party may not get justice in a particular Court, the same may be a ground to transfer the proceedings to another Court, at the same time, such apprehension must be founded on reason and should not be merely of an over sensitive mind.

7. In ***R. Balakrishna Pillai v. State of Kerala***, (2000) 7 SCC 129, the Supreme Court held as under:

“10. It is true that one of the principles of the administration of justice is that justice should not only be done but it should be seen to have been done. However, a mere allegation that there is apprehension that justice will not be done in a given case is not

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sufficient. Before transferring the case, the court has to find out whether the apprehension appears to be reasonable. To judge the reasonableness of the apprehension, the state of mind of the person who entertains the apprehension is no doubt relevant but that is not all. The apprehension must appear to the court to be reasonable, genuine and justifiable. In the present-day scenario, if these types of applications are entertained, the entire judicial atmosphere would be polluted with such frivolous petitions for various reasons....”

8. In the present petitions, the order dated 06.07.2023 passed by the learned Family Court reflects the vacillating stand of the petitioner in the prosecution of the proceedings that are pending before the learned Family Court. It appears that the present set of petitions is also another attempt of the petitioner to somehow delay the adjudication of those proceedings. I, therefore, see no reason to transfer the above referred proceedings pending adjudication before the learned Family Court to another Court.

9. In view of the above, the petitions and the pending applications are dismissed.

10. There shall be no order as to costs.

NAVIN CHAWLA, J

NOVEMBER 22, 2023/rv/ss

[Click here to check corrigendum, if any](#)

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