



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

TA-1435-2023(O&M)

Date of Decision: August 14, 2024

Rakshita through Mother Geeta Rani

...Applicant

Versus

General Public

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Ms.Veena Hooda, Advocate
for the applicant.

ARCHANA PURI, J.

The applicant has filed the present application for transfer of Succession Application under Section 372 of the Indian Succession Act, 1925, pending in the Court at Jind, to the Court of competent jurisdiction at Hansi, District Hisar.

Learned counsel for the applicant heard.

As culled from the paperbook, Sh.Kuljeet Singh Khokhar s/o Sh.Rambhagat, resident of village Umra Tehsil Hansi District Hisar had expired on 21.07.2017 and the applicants are daughter and widow of the deceased. Relating to the bank accounts of the deceased, a succession application was filed by the applicants before learned Civil Judge (Sr. Divn.), Jind, being resident of Jind. However, during the pendency of the petition, learned Civil Judge (Sr. Divn.) Jind, observed that that the deceased was the resident of Tehsil Hansi, District Hisar and his bank accounts are of



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different places and necessary petition under Section 372 of the Succession Act lies there.

Now, the applicants have apprehension that the said Presiding Officer may dismiss the application of the applicants.

It is pertinent to mention that Section 24 of the Code of Civil Procedure, provides for general power of transfer and withdrawal of suits, appeals and other proceedings. The power can be exercised, on the application of a party or suo motu, by the High Court or by the District Court. The High Court or District Court may, at any stage, transfer any suit, appeal or other proceeding pending before it, for trial or disposal, to any Court subordinate to it and competent to try or dispose of the same. Clause (b) of sub-section (1) of Section 24 provides for withdrawal of any suit, appeal or any other proceeding, pending in any subordinate Court for the purpose of dealing with the same, in any of the modes mentioned in clauses (i) to (iii) therein, namely, (i) try or dispose of the same; or (ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or (iii) re-transfer the same for trial or disposal to the Court, from which it was withdrawn. Sub-section (5) of Section 24 was inserted by the Code of Civil Procedure (Amendment) Act, 1976, providing that a suit or proceeding may be transferred under this section from a Court which has no jurisdiction to try it.

In order to attract Section 24, it is necessary that the Court to which the case is transferred, must have competence to try it. In view of sub-section (5) of Section 24, it is not necessary that the Court from which



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the case is to be transferred, must have jurisdiction to try the suit. That means, even if the Court, where the suit is pending has no jurisdiction to try the suit, the power of transfer can be exercised either by the District Court or by the High Court, to transfer the suit from that Court to any Court competent to try or dispose of the same. The pre-requisite for a transfer to a Court is that the transferee Court must have competence to try the suit.

The case in hand, qua which the transfer has been sought, is at the final stage. Keeping in view the same as well as the fact of return of the petition leading to denovo trial, the present application, as such is accepted. The Succession Application under Section 372 of the Indian Succession Act, 1925, bearing No.CIS-SUCC/20/2022, titled as 'Rakshita (minor) vs. General Publibc', stands transferred from the court of learned Civil Judge (Sr. Divn.) Jind, to the Court of competent jurisdiction at Hansi, District Jind. The requisite record of the aforesaid application, shall be transferred by the learned Civil Judge (Sr. Divn.) Jind to District and Sessions Judge, Hisar.

Learned District and Sessions Judge, Hisar shall assign the said petition to the court of competent jurisdiction at Hansi. Even, the applicants are directed to appear before the concerned Court, within a period of one month from today onwards.

August 14, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No