

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. 2154 OF 2023

PETITIONER(S)

VERSUS

RESPONDENT(S)

O R D E R

1. By presenting this petition under Section 25 of the Code of Civil Procedure, 1908, the petitioner-wife seeks transfer of proceedings instituted by the respondent-husband under Section 25 of the Guardians and Wards Act, 1890 bearing Case No. GW 3/2023, titled “

, from the Court of the Civil Judge, Senior Division, Chandigarh to the Family Court, West District, New Delhi or any other court of competent jurisdiction at New Delhi, on the grounds urged therein.

2. This transfer petition was considered by an Hon’ble Judge on 14.08.2023. In the third paragraph it has been recorded that the petitioner-wife is residing in New Delhi. According to the petitioner-wife, she has been residing in Chandigarh although she has her office in Panchkula.

3. Since there has been an erroneous recording of the place of residence of the petitioner-wife in the third paragraph of the order dated

14.08.2023, an application (I.A No. 171122 of 2023) has been moved on her behalf for rectification of the said order dated 14.08.2023.

4. I.A No. 171122 of 2023 stands disposed of by clarifying that the order dated 14.08.2023 recording that the place of residence of the petitioner-wife is Delhi should be read as Chandigarh.

5. By the said order dated 14.08.2023, notice was issued to the respondent-husband. He has entered appearance and has also filed a counter affidavit.

6. In the presence of the learned counsel for the parties, the transfer petition is taken up for consideration. The prayer for transfer is essentially based on the apprehension of the petitioner-wife that since she has been serving on a transferable post and there is an imminent possibility of her transfer out of Panchkula, the proceedings of GW 3/2023 may be transferred to the Courts at New Delhi where matrimonial proceedings between the parties are pending.

7. The aforesaid prayer of the petitioner-wife is vehemently opposed by learned counsel for the respondent-husband. According to him, the child of the parties is presently in the custody of the petitioner-wife and he has been residing with her in Chandigarh; and, without caring for the interest of the child, the petitioner-wife seeks to have the proceedings transferred from a Court which is 2 kms away from his (child's) residence to a Court which is 250 kms away.

8. Having bestowed serious consideration to the rival contentions, this Court is of the view that no order for transfer ought to be passed on mere assumptions and apprehensions of the parties. As at present, Panchkula remains to be the place of office of the petitioner-wife and it is also not in

dispute that Chandigarh is the place of her residence as well as that of the child. The interest of the child being of paramount importance, at this stage, this Court finds no reason to grant the prayer for transfer.

9. The Transfer Petition stands dismissed, without costs.

10. Pending application(s), if any, shall stand disposed of.

.....J.
[DIPANKAR DATTA]

**NEW DELHI;
SEPTEMBER 22, 2023**

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Transfer Petition(s)(Civil) No(s). 2154/2023

IA No. 171122/2023 - APPLICATION FOR RECTIFICATION

IA No. 152181/2023 - EX-PARTE STAY

Date : 22-09-2023 These matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA

For Petitioner(s) Mr. Akanksha Sisodia, Adv.
Mr. Pulkit Tare, AOR

For Respondent(s) Mr. Setu Niket, Adv.
Ms. Esha Mazumdar, Adv.
Mr. Azmat Hayat Amanullah, AOR
Mr. Chaitanya Kamal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. IA No. 171122 of 2023 (application for rectification) stands disposed of.
2. The Transfer Petition stands dismissed in terms of the signed order.
3. Pending application(s), if any, shall stand disposed of.

(KAPIL TANDON)
COURT MASTER (SH)

(VEENA RANI NAGPAL)
COURT MASTER (NSH)

(Signed Order is placed on the file)