

CASE NO.:
Appeal (civil) 6070 of 2007

PETITIONER:
Iqbaljit Singh

RESPONDENT:
Pritam Kaur & Anr.

DATE OF JUDGMENT: 13/12/2007

BENCH:
Tarun Chatterjee & Dalveer Bhandari

JUDGMENT:
J U D G M E N T

(Arising out of SLP)No.19385 of 2006)

O R D E R

Leave granted.

This appeal by special leave is directed against the order dated 25th of September, 2006 passed by the High Court of Punjab and Haryana at Chandigarh in C.M.No.9803 of 2006, by which the High Court had allowed an application filed under Section 24 of the Code of Civil Procedure seeking transfer of Civil Suit No.498 of 2004 (titled as Pritam Kaur vs. Iqbaljit Singh & Anr.) pending in the Court of Additional Civil Judge, (Senior Division), Faridabad, Haryana to the Civil Court at Chandigarh or Panchkula. Feeling aggrieved by the aforesaid order of the High Court, the present special leave petition has been filed in respect of which leave has already been granted.

Having heard the learned counsel for the parties and after going through the application under Section 24 of the Code of Civil Procedure and the objections filed therein and other materials on record, we are of the view that, in the facts and circumstances of the case, the reasons offered for transfer at the instance of the respondent could not be taken as a good ground for transferring the suit from Faridabad to Chandigarh. The suit, being No. 9803 of 2006, has been filed by Smt. Pritam Kaur, the respondent herein, before the Additional Court of the Civil Judge, (Senior Division) at Faridabad, Haryana in the year 2004. In the application for transfer, the ground for transferring the suit was that the respondent, being an old lady, was not in a position to pursue the case at Faridabad and, therefore, the suit be disposed of by the court at Chandigarh and not by the Court at Faridabad. It is true that the plaintiff-respondent is a resident of Chandigarh and aged about 75 years, even then, we are of the view that no ground has been made out for transfer of the suit from Faridabad to Chandigarh. It is not in dispute that the plaintiff-respondent herself had instituted the suit for declaration and injunction in the Faridabad Court and prosecuted the same for almost two years and only after the expiry of two years, the application was filed seeking transfer. In our view, the order of transfer passed by the High Court in the exercise of its power under Section 24 of the Code of Civil Procedure cannot be sustained. It was the plaintiff-respondent, as noted herein above, who had filed the suit at Faridabad having jurisdiction to try the same and who had prosecuted the suit for about two years and then asked for transfer. Only because of the old age of the respondent, the suit could not have been transferred to

Chandigarh.

Accordingly, we set aside the impugned order and direct the trial court at Faridabad to decide the suit, positively within four months, without granting any unnecessary adjournment to either of the parties. Parties are directed to co-operate and we fix 7th of January, 2008 for appearance of the parties before the trial court at Faridabad either in person or through their counsel. It will be open to the parties to mention before us for further direction, if the suit is not disposed of within the time specified herein above.

Accordingly, the impugned order is set aside and the appeal is allowed to the extent indicated above. There will be no order as to costs.

JUDIS