

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION(C) NO.422 OF 2008

ANJU

... Petitioner(s)

Versus

VISHNU

... Respondent(s)

ORDER

1 This is a transfer petition filed on behalf of the wife for transfer of the Matrimonial Suit pending before the Additional District Judge, 2nd Court, Khandwa (M.P.) to the court of the District Judge, Jodhpur, Rajasthan.

2 When the petition is taken up for consideration, it is submitted by learned counsel appearing in support of the petition that in view of her health problems and also having regard to the fact that she is a woman it has not been possible for the petitioner to examine herself as a witness in the suit, which has resulted in her evidence being closed, which will prejudice her during final arguments. She has,

therefore, prayed for transfer of the suit, as indicated hereinabove. Learned counsel, however, has not been able to explain as to why this transfer petition was not made earlier and has now been made when the evidence of the plaintiff has been completed and she has been represented all through-out at Khandwa.

3 Having heard learned counsel for the parties, we are of the view that for the ends of justice, the petitioner, wife should be given an opportunity to examine herself, and, accordingly, we set aside the order by which her evidence was closed. We direct that the petitioner be examined on commission in Jodhpur, where she resides, along with other such witnesses as she may be advised to examine in the proceedings, similarly on commission.

4 We further direct that an Advocate Commissioner be appointed by the trial court for the said purpose. Needless to say, the respondent will be entitled to cross-examine the said witnesses also on Commission at Jodhpur. The cost of such Commission is to be borne by the respondent.

5 The transfer petition is disposed of with the aforesaid observations.

.....J.
(ALTAMAS KABIR)

.....J.
(MARKANDEY KATJU)

New Delhi,
December 15, 2008.

