

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
TRANSFER PETITION [CIVIL] NO.934 OF 2008

Gyanmati Yadav

...Petitioner(s)

Versus

Ram Sagar Yadav

...Respondent(s)

O R D E R

Heard learned counsel for the petitioner.

This is a petition for transfer of HMA Case No. 700/2007 titled Ram Sagar Yadav v. Smt. Gyanmati Yadav, pending in the Court of Additional District Judge, Delhi.

By an order dated 25.8.2008, this Court directed issuance of notice to the respondent and stayed further proceedings before the trial Court. Thereafter, Additional District Judge sent letter dated 17.9.2008 to this Court bringing to its notice that HMA Case No. 700/2007 had been finally disposed of on 18.8.2008 and an application filed under Order IX Rule 13 of the Code of Civil Procedure, for setting aside the ex-parte decree was pending. In view of that letter, the case was adjourned. On the last date, i.e., 10.7.2009, the case was adjourned for two months.

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The registry of the Court has placed before us copy of letter dated 10.7.2009 sent by District and Sessions Judge, Tis Hazari, Delhi, perusal of which reveals that the application filed under Order IX Rule 13 CPC was dismissed in default on 18.5.2009 because none had appeared on behalf of the parties.

Learned counsel appearing on behalf of the petitioner stated that he is not in a position to inform the Court whether any petition for restoration of application under Order IX Rule 13 has been filed. This being the position, the transfer petition will be deemed to have become infructuous and the same is, accordingly, disposed of.

Needless to say that in case the application under Order IX Rule 13 of the Code of Civil Procedure, 1908, is restored and ex-parte decree is set aside, it would be open to the petitioner to move this Court afresh for transfer of the main case.

.....J.
[B.N. AGRAWAL]

.....J.
[G.S. SINGHVI]

New Delhi,
September 11, 2009.