

Shiv Kumari Devendra Ojha

Vs

Ramajor Shitla Prasad Ojha and Others

Transfer Petition (C) No. 281 of 1996

(K. Ramaswamy, G. T. Nanavati JJ)

13.01.1997

ORDER

1. The petitioner has filed this petition for transfer of proceedings, viz., Succession Application No. 43 of 1995 along with Miscellaneous Application No. 23 of 1996 titled Ramajor Shitla Prasad Ojha v. Shiv Kumari Devendra Ojha pending in the Court of Civil Judge, Senior Division, Valsad, Gujarat to the competent court of Civil Judge at Sadar, District Pratapgarh in Uttar Pradesh. We had adjourned the matter by our order dated 9-12-1996 to find out whether the suit was still pending or stood disposed of. It is reported that the matter is still pending and the Civil Judge, Senior Division is yet to take up the matter. The learned counsel for the petitioner has stated that the petitioner being a lady is unable to travel from Uttar Pradesh to Valsad in Gujarat and it is really a great difficulty for her to meet the expenditure in that behalf. Shri Upadhyay, learned counsel appearing for the respondents has agreed to bear the expenditure for her travel and stay wherever she attends court. Under the circumstances, we do not find that there is any justification for transferring the matter to Pratapgarh, U.P. Whenever the petitioner goes to the court, the respondents would pay Rs. 750 (Rupees seven hundred and fifty only) on each occasion to the petitioner and the amount would be paid to her in advance. The petitioner would intimate the Civil Judge, Senior Division who would direct the respondents to pay the amount to the petitioner.

2. It is next contended that the petitioner had to engage her counsel from Surat since no advocate would be available at Valsad where the suit is pending. We think that the apprehension of the petitioner is not correct. The petitioner is at liberty to engage counsel at Valsad and the counsel would give his best to the petitioner in defending her case. If the petitioner requires any financial assistance from the respondents, it would be open to her to file an application in the Court of Civil Judge, Senior Division, Valsad for this purpose and the same would be ordered by the Civil Judge. The learned Civil Judge is directed to dispose of the application for restoration immediately and would simultaneously take up the main matter and dispose of the same expeditiously.

3. The transfer petition is accordingly disposed of.