

SUPREME COURT OF INDIA

Mangla Patil Kale

Vs.

Sanjeev Kumar Kale

(S Bharucha, D Raju and S V Patil JJ.)

13.11.2000

ORDER

1. This is a transfer petition by the wife. She seeks the transfer of matrimonial proceedings filed by the husband against her in the Tis Hazari Court in Delhi to a competent court in Jalgaon, Maharashtra, where she now resides. It is the petitioner's case that she has a small daughter with her, that she has filed a petition under Section 125 of the Criminal Procedure Code for maintenance which is still pending, that she cannot travel from time to time the distance of 1260 kilometers between Jalgaon and Delhi to contest the divorce petition nor has she any one to accompany her. Her father with whom she now stays has already suffered two heart attacks so that he cannot travel with her. Her mother suffers from Parkinsons' disease and cannot walk without help so that she would be unable to look after her small granddaughter.

2. On behalf of the husband it has been submitted that the petitioner did come to Delhi at the earlier stages of the divorce petition, that she has a brother in-law in Ambala with whom she can stay when she comes to Delhi to contest the divorce petition, and that the husband is now ready to pay for her costs of transportation to Delhi. In these circumstances, it is submitted that there is no justification for allowing the transfer petition.

3. We see every justification for allowing the transfer petition. It is not disputed that there is a small daughter of the marriage who is with the petitioner. It is not disputed that no maintenance has been paid to the petitioner or the daughter. It is not disputed that the father and mother of the petitioner suffer as afore-stated, so that there is no one to accompany the petitioner to Delhi. That there is nowhere in Delhi where the petitioner can stay is apparent, because it is a matter of which notice can be taken of that Ambala and Delhi are some distance away.

4. In these circumstances, the transfer petition is allowed and H.M.A. No. 895 of 1998 shall stand transferred from the Court of the Additional District Judge, Tis Hazari, Mew Delhi to the Court of District Judge, Jalgaon, Maharashtra, who shall try the case himself or assign it for hearing to a competent court.

5. The respondent shall pay to the petitioner the costs of the petition.

