

CASE NO.:
Transfer Case (civil) 20 of 2002

PETITIONER:
Reena Mehra

RESPONDENT:
Rohit Rai Mehra & Anr.

DATE OF JUDGMENT: 24/01/2003

BENCH:
R.C.Lahoti & Brijesh Kumar.

JUDGMENT:
J U D G M E N T

Brijesh Kumar, J.

This is a transfer petition filed by the wife of the respondent no.1 Rohit Rai Mehra praying for transfer of suit No.680 of 1999 pending in the court of Civil Judge, Tis Hazari Courts, Delhi to the City Civil Court, Mumbai. The suit has been filed by the respondent no.1 for Permanent Injunction in respect of Flat No.341, Pragati Apartments, New Delhi, which, according to the petitioner, was purchased by her father Satyapal Khanna and was gifted to her and she is the owner of the said flat. According to the petitioner, the suit has been filed with a view to harass the petitioner due to the matrimonial dispute between the parties.

According to the petitioner, her marriage with respondent no.1 Rohit Rai Mehra took place in 1991 in Delhi whereafter she started living in her matrimonial home at 234, New Rajendra Nagar, New Delhi along with her husband namely, respondent no.1 and his parents. It is also the case of the petitioner that sufficient jewellery and cash was given in the marriage still the demand for a car was made and harassment of the petitioner started. Ultimately, a few months after the marriage a car was also presented to the respondent no.1 but the harassment continued. According to the petitioner, things came down to physical assaults and mental torture caused by the respondent no.1 and her in-laws, more so, after she gave birth to a child. Ultimately, her father Satyapal Khanna, respondent no.2, purchased a flat for her namely, flat no.341, Pragati Apartments, Paschim Vihar, New Delhi and gifted it to her and also executed a power of attorney in her favour. It is also her case that the flat has been transferred in her name. She and respondent no.1 shifted and started living in the said apartment but sometime later her in-laws, it is said, sold their flat in New Rajendra Nagar and purchased a flat nearby namely flat no.305, Pragati Apartments, Paschim Vihar, New Delhi. She also gave birth to a female child. Her case further is that on 6.11.1997 she was given a severe physical assault but she continued to live with respondent no.1 in her flat.

The allegations further go to indicate that the brother of the respondent no.1 had even extended threat to her to kidnap her son which scared her to the extent that she left Delhi and went to her parents at Bombay wherefrom she informed to respondent no.1 about the whole position. Immediately thereafter on 3.1.1998 respondent no.1 filed a petition for restitution of conjugal rights in Delhi Court. The petitioner moved this Court by filing a Transfer Petition (C) No.596 of 1998 which was allowed on 3.8.1998 and the case was transferred to Bombay observing that the case deserved to be transferred to Family Court, Mumbai. The petitioner also filed certain criminal cases in connection with the demand of dowry etc. against respondent no.1 and her in-laws and the proceedings whereof have been initiated in Bombay courts. The effort made by respondent no.1 for quashing of the FIR failed and the petition moved by respondent no.1 was dismissed by the Bombay High Court.

It is submitted that as a sequel of what has been going on between the parties, respondent no.1 filed the Suit No.680 of 1999 for

Permanent Injunction in respect of Flat No.341, Pragati Apartments, Paschim Vihar, New Delhi by impleading the father of the petitioner only as a defendant. The petitioner, being the owner of the flat moved for being impleaded as a party in the said suit. The car which was presented to respondent no.1 was seized and the Flat No.341, Pragati Apartments, Paschim Vihar, New Delhi was also sealed by the Bombay police. Ultimately, it is alleged that respondent no.1 succeeded in getting the sealed apartment opened, the car however seized from respondent no.1 was delivered possession of to the petitioner. In proceedings which were going on regarding opening of the sealed apartment at Delhi in one of them the petitioner was even ordered to be present personally on some of the dates. In the meantime the respondent no.1 filed yet another Suit No.210 of 2000 for mandatory injunction in respect of same Flat no.341, Pragati Apartments, Paschim Vihar, New Delhi impleading the father of the petitioner as defendant. However, the subsequent Suit No.210 of 2000 was withdrawn by respondent no.1. The order passed by the appellate court directing the petitioner to be positively present in the Court of the Senior Civil Judge at Delhi was also ultimately set aside by the High Court in Civil Revision No.815 of 2000. The Civil Revision preferred by the respondent no.1 against the order of the Civil Judge ordering impleadment of the petitioner as a defendant in Suit No.680 of 1999 was also dismissed.

It is submitted that in the background indicated above the petitioner is finding it very difficult to cope with the harassing attitude and activities of respondent no.1 and to contest the cases initiated by him at Delhi. It is submitted that this all is being done by respondent no.1 to cause as much discomfort, harassment, harm and injury as possible to the petitioner. It appears to us that though it is a suit no doubt relating to the property namely, flat no.341, Pragati Apartments, Paschim Vihar, New Delhi, but it is not unconnected with the matrimonial disputes going on between the parties. The suit filed for restitution of conjugal rights which was transferred to Bombay was later on not prosecuted. The second suit filed again for mandatory injunction in respect of the same property at Delhi was also withdrawn after the petitioner had moved this Court in connection therewith. In the suit in question which has been filed by the respondent no.1 the petitioner was not impleaded as a party but on an application the court directed impleadment of the petitioner as defendant in the said suit. Petitioner and Respondent no.1 had started residing in Flat No.341, Pragati Apartments, Paschim Vihar, New Delhi which nowhere has been indicated to have been purchased by the respondent no.1. The petitioner's case is clear that she is the owner of the flat which her father had purchased for her so that she could peacefully live in that flat. But in the atmosphere of scare and fear she had to leave that apartment and to go to her parents at Bombay. No doubt the rights of the parties shall be subject matter of decision on merits in the suit proceedings but prima facie in view of the order passed by the Civil Court for impleadment of the petitioner as one of the defendants in the suit which order was also upheld by the High Court shows that she is a necessary party to the proceedings and has certainly something to do with the proceedings relating to the flat. All these disputes including the one relating to the flat are as a consequence of matrimonial dispute between the parties. Some proceedings initiated by the petitioner at Bombay are continuing there and the effort made by respondent no.1 for quashing of such proceedings in Bombay High Court failed. They have to contest those proceedings at Bombay. The petitioner has also faced many cases either filed against her or which she had to file in course of proceedings between the parties. In one of the cases filed by respondent no.1 earlier relating to the restitution of conjugal rights, this Court had taken the view that the case deserved to be transferred to Bombay. Considering all the facts and circumstances and the background given above, we feel that it would serve the ends of justice better if Suit No.680 of 1999 pending in Tis Hazari Courts, Delhi is transferred to the City Civil Court, Bombay so that the petitioner may have a fair opportunity to defend herself in those proceedings.

In the result, we allow the petition and transfer the case namely, Suit No.680 of 1999 pending in the Court of Tis Hazari, Delhi to the City Civil Court, Mumbai as prayed. The Civil Judge, Tis Hazari, Delhi shall

transmit the record of Suit No.680 of 1999 forthwith to the City Civil Court, Mumbai. Any observation made in this order is limited to the purpose of deciding this transfer petition and shall not affect the merits of the case of the parties in any other proceedings either way.

JUDIS