

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

TRANSFER PETITION (CIVIL.) NO(s). 191 OF 2005

ANINDITA DAS

Petitioner(s)

VERSUS

SRIJIT DAS

Respondent(s)

(With appln(s) for stay and office report)

WITH

T.P.(C) NO. 146 of 2005

(With appln(s) for stay and early hearing and office report)

Date: 29/08/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner(s) Mr. Ranjan Mukherjee, Adv.

For Respondent(s) Mr. Pramod Ahuja, Adv.

Mr. Arun K. Sinha, Adv.

Mr. Rakesh Singh, Adv.

Mr. Mukesh Kumar Sinha, adv.

Mr. S. Rohit Kumar, Adv.

Mr. Rahul Gupta, Adv.

UPON hearing counsel the Court made the following

O R D E R

The transfer petitions are dismissed in terms of the signed orders.

(K.K. Chawla)

(Jasbir Singh)

Court Master

Court Master

[Two separate signed orders are placed on the files]

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO.146 OF 2005

ANINDITA DAS

Petitioner(s)

VERSUS

SRIJIT DAS

Respondent(s)

O R D E R

In this case notice was issued limited to the question whether

Respondent-husband is willing to pay all expenses for travel and stay of the

Petitioner-wife and a companion.

It is sought to be argued that in spite of the limited notice the petition

should be made absolute. In our view, once a limited notice is issued it means

that the other reliefs already stand rejected. The relief in the Petition must

thereafter be confined only to those covered by the limited notice.

On behalf of the Respondent it is stated that he is willing to pay all expenses for travel and stay for the Petitioner and her companion for every visit when the Petitioner is required to attend the Court at Delhi.

Accordingly, we dismiss the Transfer Petition. We, however, direct that the Respondent shall send in advance money for a 2nd class A.C. train journey for the Petitioner and a companion. The Respondent shall also pay stay expenses of the Petitioner and her companion in a 3 Star Hotel for each and every occasion when she is required to attend the Court at Delhi. The trial court shall ensure that these monies are paid.

.....J.
(S.N. Variava)

.....J.
(H.K. Sema)

New Delhi;
August 29, 2005.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO.191 OF 2005

ANINDITA DAS

Petitioner(s)

VERSUS

SRIJIT DAS

Respondent(s)

O R D E R

This transfer petition has been filed by the wife on the ground that the Petitioner has a small child of six years. She has further claimed that she has no source of income and it is difficult for her to attend the Court at Delhi. She has further claimed that she is not keeping good health.

In support of this Petition, large number of authorities have been cited

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namely, Reena Bahri v. Ajay Bahri reported in (2002) 10 SCC 136
, Leena

Mukherjee v. Rabi Shankar Mukherjee reported in (2002) 10 SCC 480,
Ram

Gulam Pandit and Anr. v. Umesh J. Prasad reported in (2002) 10 SCC 551 and

Rajwinder Kaur v. Balwinder Singh reported in (2003) 11 SCC 726.
These

authorities are all based on the facts of their respective cases. They do not lay
ay

down any particular law which operates as a precedent.

is Court was Even otherwise, it must be seen that at one stage th

showing leniency to ladies. But since then it has been found that a large number

of transfer petitions are filed by women taking advantage of the leniency taken by

this Court. On an average at least 10 to 15 transfer petitions are on Board of

each Court on each admission day. It is, therefore, clear that leniency of t
his

Court is being misused by the women.

This Court is now required to consider each petition on its merit.

In

this case the ground taken by the wife is that she has a small child and that there is nobody to keep her child. The child, in this case, is six years old and there are grand parents available to look after the child. The Respondent is willing to pay all expenses for travel and stay for the Petitioner and her companion for every visit when the Petitioner is required to attend the Court at Delhi. Thus, the ground that the Petitioner has no source of income is adequately met.

Except for stating that her health is not good, no particulars are given.

On the ground that she is not able to come to Delhi to attend the Court on a particular date, she can always apply for exemption and her application will undoubtedly be considered on its merit. Hence, no ground for transfer has been made out.

Accordingly, we dismiss the Transfer Petition. We, however, direct that the Respondent shall pay all travel and stay expenses of the Petitioner and her companion for each and every occasion when she is required to attend the Court at Delhi.

The Respondent shall send in advance to the Petitioner money for a 2nd Class A.C. train ticket for herself and a companion. The Respondent shall also pay stay expenses of the Petitioner and her companion in a 3-Star Hotel. The trial court shall ensure that the Petitioner has been paid the travel expenses in advance and that the hotel expenses are paid to her on each and every occasion when she is required to attend the Court at Delhi.

.....J.
(S.N. Variava)

.....J.
(H.K. Sema)

New Delhi;

August 29, 2005.