

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CR No.6631 of 2015 (O&M).

Date of Decision: 06.11.2015.

Bhupinder Singh

....Petitioner.

VERSUS

Gurinder Kaur and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Sandeep S. Majithia, Advocate for the petitioner.

SNEH PRASHAR, J.

This is a petition under Article 227 of Constitution of India for setting aside the order dated 17.08.2015 passed by learned District Judge, Amritsar, vide which the application filed under Section 24 of the Code of Civil Procedure for transfer of the petition under Section 13 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) from the Court of Smt. Monika Goyal, Additional District Judge to any other Court of Additional District Judge, Amritsar was dismissed.

The facts are that a petition under Section 13 of the Act of 1955 filed by the petitioner against the respondent is pending before Smt. Monika Goyal, learned Additional District Judge, Amrtisar. During pendency of the petition, respondent filed an application praying for grant

of maintenance allowance as envisaged under Section 24 of the Act of 1955. The learned trial Court decided the application vide order dated 16.01.2015 and directed the petitioner to pay an amount of Rs.18,000/- per month as maintenance to her and her minor children. Feeling aggrieved by the order, the petitioner filed CRM-M-23519 of 2015 before this Court and vide order dated 22.07.2015 the petitioner was directed to pay Rs.10,000/- per month as maintenance during pendency of the petition. Thus, alleging that he had not been given proper opportunity of hearing, the petitioner moved an application before learned District and Sessions Judge, Amritsar with a prayer to transfer the case from the Court of Smt. Monika Goyal, learned Additional District Judge, Amritsar to some other court of competent jurisdiction. Learned District Judge, Amritsar dismissed the application vide the impugned order dated 17.08.2015. Aggrieved by the same, the petitioner has filed the instant petition.

The submissions made by learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner argued that apart from the fact that an adequate opportunity of hearing was not given to the petitioner at the time of disposal of the application for grant of maintenance filed by the respondent, even after this Court stayed payment of the maintenance amount beyond Rs.10,000/- per month, the trial Court has refused to comply with the order and is compelling the petitioner to pay complete arrears of maintenance as per the order passed by her. For that reason the petition is not even being fixed for evidence of the parties. Learned counsel contended

that in such circumstances the petitioner feels that atmosphere in that Court has become hostile against him.

A judicial order was passed by learned trial Court on the application for maintenance filed by the respondent. Availing the remedy available to him, the petitioner challenged the order by filing petition under Section 482 Cr.P.C. before this Court in which payment of maintenance allowance beyond Rs.10,000/- per month has already been stayed. No order passed by learned trial Court refusing to comply with the order of this Court or compelling the petitioner to pay maintenance at the rate of Rs.18,000/- per month as fixed by her, has been produced by the petitioner with this petition. In fact, no order passed by learned trial Court which could prejudice any right of the petitioner has been produced. The only grievance of the petitioner that the maintenance allowance ascertained by the trial Court was on the excessive side, is no ground for transferring the petition from the said Court to some other court of competent jurisdiction. The operative portion of the impugned order passed by learned District Judge declining transfer of the petition is as under:-

“After considering the entire existing facts and circumstances, I am of the considered opinion that if applicant feels that if any order is not passed in accordance with law, he can challenge the same by filing revision or appeal, as the case may be. It is not ground to transfer the case. Applicant has filed petition under Section 482 of Cr.P.C. Vide order dated 22.7.2015, as per photo copy of order placed on file, the stay is granted with regard to payment of beyond Rs.10000/- per month as maintenance. Moreover, a perusal of trial court

record goes to show that applicant had filed application for review/ modification of impugned order and that was also dismissed by the trial court on merits, vide order dated 16.5.2015. The applicant is liable to make payment of maintenance so granted by the trial court and he cannot wriggle out of his liability by moving frivolous application for transfer of case, in question. The applicant has no right to prosecute the petition without making payment of amount of maintenance. It is not the sweet will of a litigant to choose forum for adjudication of his disputes. I am of the considered view that the application in hand, is clearly misconceived and the same is hereby dismissed.”

As already mentioned above, no substantive reason could be demonstrated by learned counsel for the petitioner for transfer of the petition. He could also not point out any adversity or illegality in the above findings of learned District and Sessions Judge. Needless to say that transfer of a case from one Court to another without any sufficient ground can do no good to any party except adversely affect the sanctity attached to the functioning of the Court.

Thus, finding no ground for intervention in the order dated 17.08.2015 of learned District Judge, Amrisar, the petition is dismissed. However, learned trial Court is directed to expedite the trial in due process of law.

(SNEH PRASHAR)
JUDGE

06.11.2015.
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