

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

TA No.632 of 2012 (O&M).
Date of Decision: 10.09.2015.

Rajwinder Kaur alias Parveen KaurPetitioner.

VERSUS

Manjit SinghRespondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Hari Om Sharma, Advocate for the petitioner.

Mr. Inderjeet Sharma, Advocate for the respondent.

SNEH PRASHAR, J.

This is a petition under Section 24 read with Section 151 of the Code of Civil Procedure (for short, "C.P.C.") seeking transfer of the petition for restitution of conjugal rights filed under Section 9 of the Hindu Marriage Act, 1955 (for short, "the Act of 1955") or in the alternative for dissolution of marriage by a decree of divorce under Section 13 of the Act of 1955 by respondent-husband from the Court of District Judge, Jalandhar to the Court of competent jurisdiction at Bathinda.

The submissions made by learned counsel representing the petitioner and learned counsel representing the respondent have been heard.

It is submitted on behalf of the petitioner that she was married to the respondent on 17.11.2003 at village Jodhpur Romana, District

Bathinda. She filed a complaint under the Protection of Women from Domestic Violence Act, 2005 (for short, “the Act of 2005”) against the respondent and others, which is pending in the Court of Additional Chief Judicial Magistrate, Bathinda. The respondent has since filed a petition for restitution of conjugal rights under Section 9 or in the alternative for dissolution of marriage by a decree of divorce under Section 13 of the Act of 1955 which is pending in the Court of District Judge, Jalandhar. Submitting that the petitioner is a poor lady and has no independent source of income and she alongwith her minor daughter is residing at the mercy of her parents, learned counsel sought transfer of the petition from Jalandhar to Bathinda.

Learned counsel for the respondent resisted the prayer of the petitioner on the ground that all allegations levelled by the petitioner are false. She had left the conjugal company of the respondent of her own volition and enjoys good health for travelling from one place to other.

The respondent is residing in Dubai. Despite direction by this Court he did not appear in person for amicable resolution of the dispute. The petitioner is presently residing with her parents at village Jodhpur Romana, District Bathinda. The distance between Bathinda and Jalandhar is about 200 kilometers. It will indeed be difficult for the petitioner to travel alongwith the minor child for attending the hearings in the Court at Jalandhar and the expenses for travelling will also be an additional financial burden on her. It has been held in *Sumita Singh vs. Kumar Sanjay and another*, AIR 2002 (SC) 396 and *Neelam Kanwar vs. Devinder Singh*

Kanwar, 2000(8) SCC 184 that convenience of the wife has to be taken into consideration in such like matters.

Accordingly, in view of the facts discussed above, the petition for restitution of conjugal rights filed under Section 9 or in the alternative for dissolution of marriage by a decree of divorce under Section 13 of the Act of 1955 pending in the Court of learned District Judge, Jalandhar is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Bathinda. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Bathinda within two weeks from the date of receipt of copy of this order, who will either keep the petition himself/herself or will entrust the same to any other Court of competent jurisdiction at Bathinda.

The parties are directed to appear before the District Judge, Bathinda on 08.10.2015.

(SNEH PRASHAR)
JUDGE

10.09.2015.
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