

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

TA No.357 of 2013.

Date of Decision: 01.10.2015.

Kuldip Kaur Manak

....Petitioner.

VERSUS

Ravinder Singh Manak

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Vijay Lath, Advocate for the petitioner.

Mr. Sarju Puri, Advocate for the respondent.

SNEH PRASHAR, J.

This is a petition by the petitioner-wife Smt. Kuldip Kaur Manak under Section 24 of the Code of Civil Procedure seeking transfer of the petition filed under Section 13 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by respondent-husband from the Court of District Judge, Kapurthala to the Court of competent jurisdiction at Shaheed Bhagat Singh Nagar.

The submissions made by Mr. Vijay Lath, learned counsel representing the petitioner and Mr. Sarju Puri, learned counsel representing the respondent have been heard.

It is submitted on behalf of the petitioner that she was married to the respondent on 16.03.1997. After marriage, with the consent of the respondent, she went abroad to earn livelihood by working in Canada. She

used to visit and stay in her matrimonial home and discharge her marital duties. Efforts were made to take the respondent to Canada but in vain. The divorce petition earlier filed by the respondent against the petitioner was compromised and thereafter they resided together in the matrimonial home. However, now the respondent and his family members have started treating the petitioner with cruelty and as and when she visits India she is left to reside at her parental home. Respondent has since instituted a petition under Section 13 of the Act of 1955, which is pending adjudication in the Court of District Judge, Kapurthala. Submitting that the distance between Kapurthala and Shaheed Bhagat Singh Nagar is about 65 kilometers and the Courts at Shaheed Bhagat Singh Nagar are also nearest to the respondent than the Courts at Kapurthala and that the petition under Section 9 of the Act of 1955 filed by the petitioner is pending at Shaheed Bhagat Singh Nagar, learned counsel sought transfer of the petition from Kapurthala to Shaheed Bhagat Singh Nagar.

Learned counsel for the respondent resisted the prayer of the petitioner on the ground of concealment of fact that she is permanent resident of Canada and visits India for only short periods. Learned counsel contended that the petitioner is pursuing her case in India through her maternal uncle. Therefore, the question of inconvenience to the petitioner in defending the case at Kapurthala does not arise.

The distance between Shaheed Bhagat Singh Nagar and Kapurthala is about 65 kilometers. A petition under Section 9 of the Act of 1955 between the parties is already pending at Shaheed Bhagat Singh

Nagar. It will be expedient and in the interest of justice to decide the petition under Section 13 of the Act of 1955 filed by the respondent together with that petition. Also it will be difficult for the petitioner to attend the hearings before the Court at Shaheed Bhagat Singh Nagar when she comes to India for prosecuting her petition and for defending the other petition since she will be residing with her parents at Kapurthala. 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, considering the facts discussed above, the petition filed by the respondent under Section 13 of the Act of 1955 pending in the Court of learned District Judge, Kapurthala is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Shaheed Bhagat Singh Nagar. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Shaheed Bhagat Singh Nagar 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 Shaheed Bhagat Singh Nagar.

The parties are directed to appear before the District Judge, Shaheed Bhagat Singh Nagar on 16.11.2015.

(SNEH PRASHAR)
JUDGE

01.10.2015.
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