

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

TA No.373 of 2013.

Date of Decision: 08.10.2015.

Balvir Kaur

....Petitioner.

VERSUS

Sukhmander Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Vivek Sharma, Advocate for the petitioner.

Mr. K.D.S. Sidhu, Advocate for the respondent.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure was filed by Smt. Balvir Kaur-wife 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 learned Additional District Judge, Bathinda to the Court of District Judge, Ludhiana.

The submissions made by Mr. Vivek Sharma, learned counsel appearing for petitioner and Mr. K.D.S. Sidhu, learned counsel representing the respondent have been heard.

It is submitted on behalf of the petitioner that she was married to the respondent on 09.07.1994 and two daughters namely, Jasbir Kaur and Lakhbir Kaur were born out of the wedlock on 28.10.1995 and 06.03.1997. However, on 19.03.1997 she alongwith her minor daughters was thrown out

of the matrimonial home. She alongwith her minor daughters filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure (for short, "Cr.P.C.") against the respondent which was decided vide order dated 03.11.2013 by Judicial Magistrate Ist Class, Ludhiana declining maintenance to her but allowing maintenance allowance for her daughters. Subsequently, her daughters filed an application under Section 127 Cr.P.C. She and her daughters also filed a civil suit No.21 dated 23.01.2009 against the respondent under Section 18 and 20 of the Hindu Adoption and Maintenance Act and for permanent injunction which was partly decreed vide judgment and decree dated 28.11.2009 passed by Civil Judge (Junior Division), Talwandi Sabo. The appeal filed by the respondent against the judgment and decree dated 28.11.2009 was also dismissed. Respondent has since instituted a petition under Section 13 of the Act of 1955, which is pending adjudication in the Court of Additional District Judge, Bathinda. Submitting that the petitioner is a poor lady and has no independent source of income and alongwith her daughters, who are of marriageable age, is residing at the mercy of her parents, learned counsel sought transfer of the petition to Ludhiana.

Learned counsel for the respondent resisted the prayer of the petitioner on the ground that the petitioner herself is the wrong doer and when by filing the civil suit, she had herself chosen to litigate against the respondent at Bathinda, there is no ground for transfer of the divorce petition filed by the respondent from Bathinda to Ludhiana.

Admittedly, the petitioner alongwith her daughters is residing

with her parents at Ludhiana. She has two daughters, who are being looked after by her single handedly. The distance between Ludhiana and Bathinda is about 140 kilometers. It will indeed be difficult for the petitioner to attend the hearings before the Court by travelling such long distance 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, 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 Additional District Judge, Bathinda is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Ludhiana. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Ludhiana 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 Ludhiana.

The parties are directed to appear before the District Judge, Ludhiana on 17.11.2015.

(SNEH PRASHAR)
JUDGE

08.10.2015.
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