

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-527-2013 (O&M)
Date of Decision: August 6, 2015

Jatinder Kaur

...Petitioner

Versus

Sukhjinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Avtar S. Khinda, Advocate,
for the petitioner.

Mr. G.P.S. Bal, Advocate,
for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition filed under Section 24 of the Code of Civil Procedure, 1908, is for transfer of the petition, titled as "Sukhjinder Singh v. Jatinder Kaur", filed under Section 13 of the Hindu Marriage Act, 1955 (for brevity, 'the Act'), from the Court of learned Additional District Judge, Mohali, to a Court of competent jurisdiction at Kapurthala.

Learned counsel contends that due to harsh behaviour of the respondent-husband, it was not possible for the petitioner-wife to pull on any more with him. The petitioner-wife was forced

to leave the matrimonial house at Mohali and thereafter she had no option except to take shelter at her parental house at village Bulana, District Kapurthala. He further points out that the petitioner-wife, being unemployed, has no sources to go to Mohali from Kapurthala, which is at a distance of 200 Kms., on each and every date of hearing, to defend the case filed by the respondent-husband. It has also been pointed out that a case arising out of the Protection of Women from Domestic Violence Act, 2005, is pending adjudication before the Court at Kapurthala. He further submits that as a matter of fact, all the cases arising between the same parties should be decided by the Courts at one station.

On the other hand, learned counsel representing the respondent-husband submits that the petition mentioned here-in-above may be transferred to any other place than Kapurthala since the respondent-husband has apprehension that he might be implicated in a false case by the petitioner-wife and her family members.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

In the matter of **Sumita Singh v. Kumar Sanjay and another**, AIR 2002 SC 396, Hon'ble the Supreme Court while dealing with the petition under Section 24, CPC, for transfer of a

matrimonial case held that *“it is the wife's convenience that must be looked at”*. In **Jitender Kaur v. Manpreet Singh** (TA No. 263 of 2009, decided on 25.11.2009), a Co-ordinate Bench of this Court held that in terms of Section 21-A of the Act, all proceedings under the Act have to be tried by the same Court, therefore, a petition under Section 13 of the Act, filed by the respondent in the said case, was ordered to be tried by the same court which was seized of earlier proceedings under Section 9 of the Act.

Similar view was taken in the matters of **Annu Arora v. Rakesh Kumar** (TA No. 648 of 2011, decided on 16.12.2011); **Bupinder Kaur v. Inderpreet Singh** (TA No. 616 of 2011, decided on 09.05.2012); **Leena Kalra @ Lovely v. Parveen Kumar** (TA No. 381 of 2014, decided on 30.03.2015); and **Suman v. Baldev Singh** (TA No. 637 of 2013, decided on 3.7.2015).

There appears to be substance in the submissions made by learned counsel for the petitioner that Mohali is about 200 Kms. from Kapurthala; the petitioner-wife has no financial resources to go to Mohali from Kapurthala on each and every date of hearing to defend the case filed by the respondent-husband; and that there is no adult male member except father at her parental house.

Keeping in view the totality of the facts and circumstances of the case as well as the ratio of the judgments cited here-in-above, the case titled as “Sukhjinder Singh v. Jatinder

Kaur”, filed under Section 13 of the Act by the respondent-husband, is transferred from the Court of learned Additional District Judge, Mohali, to the Board of learned District Judge, Kapurthala, who shall either try the case himself or assign it to any other Court of competent jurisdiction within his Sessions Division.

Learned Additional District Judge, Mohali, shall send the complete record of the case titled as “Sukhjinder Singh v. Jatinder Kaur”, filed under Section 13 of the Act by the respondent-husband, to the Court of learned District Judge, Kapurthala, immediately.

The parties to the *lis* are directed to appear before learned District Judge, Kapurthala, on 7.9.2015, at 10:00 a.m., for further proceedings.

In view of the fact that the case between the parties is pending for the last several years, learned Trial Court shall expedite its disposal.

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

August 6, 2015
Pkapoor