

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

TA No.711 of 2013 (O&M).
Date of Decision: 14.09.2015.

Jasmir Kaur

....Petitioner.

VERSUS

Narinder Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. G.S. Bains, Advocate for the petitioner.
Mr. D.R. Punia, Advocate for the respondent.

SNEH PRASHAR, J.

This is a petition by petitioner-wife Smt. Jasmir Kaur under Section 24 of the Code of Civil Procedure (for short, "C.P.C.") seeking transfer of the civil suit titled 'Narinder Singh vs. Jasmir Kaur' filed by respondent-husband, from the Court of Civil Judge (Junior Division), Phagwara to the Court of competent jurisdiction at Mohali.

The submissions made by Mr. G.S. Bains, learned counsel representing the petitioner and Mr. D.R. Punia, learned counsel representing the respondent have been heard.

It is submitted on behalf of the petitioner that she was married to the respondent on 12.12.1975 as per Sikh rites and ceremonies and three children were born out of their wedlock. After marriage, the respondent harassed and maltreated the petitioner and ultimately on 10.01.2013 threw her out of the matrimonial home and since then she is residing with her

parents. A petition claiming maintenance under Section 125 of the Code of Criminal Procedure filed by the petitioner against the respondent is pending at Mohali but despite the order of the Court the respondent is not paying maintenance allowance to her. Respondent has filed a suit for declaration and permanent injunction regarding a house which is in possession of the petitioner. The said suit is pending adjudication in the Court of Civil Judge (Junior Division), Phagwara. Submitting that the petitioner is a poor lady and has no independent source of income and is residing at the mercy of her parents, learned counsel sought transfer of the civil suit from Phagwara to Mohali.

Learned counsel for the respondent resisted the prayer of the petitioner on the ground that though the house in question is in the name of the petitioner but it was purchased by the respondent after retirement from Air Force. Learned counsel further contended that the petitioner as well as the respondent are residing at Phagwara in the same house as per order of this Court dated 04.02.2014 passed in Criminal Revision No.3817 of 2013 and thus, the present petition has become infructuous.

The petitioner is stated to be 58 years old and as stated by her is presently residing with her parents at Mohali. As regards the order passed in Criminal Revision learned counsel for the petitioner submits that respondent has failed to comply with the condition of payment of maintenance to her to the tune of Rs.7000/- per month and being completely without money she is residing with her parents at Mohali and occasionally visits the house in her possession at Phagwara. The distance between

Mohali and Phagwara is about 100 kilometers. It will indeed be difficult for the petitioner who is an old lady to defend the suit by travelling such long distance on every date of hearing 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 civil suit filed by the respondent which is pending in the Court of learned Civil Judge (Junior Division), Phagwara is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Mohali. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Rupnagar within two weeks from the date of receipt of copy of this order, who will entrust the same to a Court of competent jurisdiction at Mohali.

The parties are directed to appear before the District Judge, Rupnagar on 12.10.2015.

(SNEH PRASHAR)
JUDGE

14.09.2015.
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