

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

TA-725-2013 (O&M)

Date of Decision: July 07, 2015

Suman Bala

.....Petitioner

Versus

Lalit Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

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

.....

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)

Vide order dated 20.03.2015, it was directed to serve the respondent-husband by way of *Dasti* summons.

Learned counsel for the petitioner has produced the summons in original whereby *dasti* summons were served upon the respondent-husband. The summons produced by the learned counsel for the petitioner-wife are taken on record.

No one has put in appearance for the respondent-husband. He is proceeded against ex parte.

The present petition has been filed under Section 24 of the Code of Civil Procedure (for brevity, "the CPC") for transfer of case No.55 dated 08.10.2013, titled as "**Lalit Kumar vs Suman Bala**" under Section 13 of the Hindu Marriage Act, 1955, from the board of learned District Judge, Fatehabad (Haryana) to the Court of competent jurisdiction at Panchkula (Haryana).

Learned counsel contends that the marriage of the petitioner with the respondent was solemnized in the year 2009 and a son was born, who is aged about five years and residing with the petitioner-wife at Panchkula. Due to incompatible temperament it was not practicable for the petitioner-wife to live with the respondent-husband. She was forced to leave the matrimonial house and thereafter she (petitioner) along with her minor son is residing at Panchkula. The husband has filed a petition under Section 13 of the Hindu Marriage Act, 1955, which is pending adjudication before the learned District Judge, Fatehabad. Learned counsel for the petitioner submits that there is no adult member with the petitioner to accompany her to Fatehabad to defend the divorce petition filed by respondent-husband. He submits that the said petition be transferred to the Court of competent jurisdiction at Panchkula.

I have heard the learned counsel for the petitioner and with his 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 Hindu Marriage Act, 1955, all proceedings under the said Act have to be tried by the same Court, therefore, a petition under Section 13 of the Hindu Marriage Act filed by the respondent has to be tried by the same court which is 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) and **Leena Kalra @ Lovely v. Parveen Kumar** (TA No. 381 of 2014, decided on 30.03.2015).

After going through the facts and the legal

pronouncements on the subject, this Court is of the considered view that the case titled “**Lalit Kumar vs Suman Bala**” under Section 13 of the Hindu Marriage Act, 1955, pending adjudication before the learned District Judge, Fatehabad be transferred to the Court of competent jurisdiction at Panchkula and, as such, the same is transferred to the board of the learned District Judge, Panchkula, who shall himself try the said case or assign it to the Additional District Judge, Panchkula, for trial according to law.

The learned District Judge, Fatehabad, shall send the complete record of the case to the Court of learned District Judge, Panchkula, immediately.

Parties to the lis are directed to appear before the learned District Judge, Panchkula, on 10.08.2015 at 10.00 a.m. for further proceedings.

Disposed of accordingly.

July 07, 2015
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(NARESH KUMAR SANGHI)
JUDGE