

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

Transfer Application No.786 of 2013

Date of Decision: July 21, 2015

Harpreet Kaur

..Petitioner

Versus

Baldev Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Arinder Singh, Advocate
for the petitioner.

Ms.Sarika Gupta, 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)

Learned counsel for the respondent states at bar that in spite of the best efforts made, she was unable to contact her client i.e. respondent-husband. She pleads that she has no instructions to argue the present case.

In view of the above, it appears that the respondent-husband is not interested in contesting the present petition.

Prayer in the present petition filed under Section 24(1) of Code of Civil Procedure is for transfer of the case No.94 dated 26.07.2012 tilted as “**Baldev Singh vs. Harpreet Kaur**” filed under Section 13 of the Hindu Marriage Act from the Court of learned Additional District Judge, Mohali to the Board of learned District Judge, Barnala.

Learned counsel for the petitioner submits that on account of harsh nature of the respondent-husband, it was not possible for the petitioner-wife to pull any more with him (husband). The petitioner along with the newly born female baby was forced to leave the matrimonial house at Mohali and she had to take shelter at the house of her parents at Barnala. He further submits that the female baby with the petitioner is five years old at present. Mohali is 140 kilometres from Barnala and it is not possible for the petitioner to go to Mohali on each date of hearing to defend the case filed by the respondent-husband. She has no source of income. It has also been pointed out by the counsel that the petitioner is a disabled woman and she has a lot of difficulty in travelling. A civil case is also pending adjudication at Barnala between the same parties. He submits that the above mentioned petition filed by the respondent-husband against the petitioner be transferred to Barnala.

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

Since the learned counsel for the respondent has pleaded no instructions, therefore, she has not advanced the arguments, though she remained present in the Court during the dictation of this order.

In the matter of ***Sumita Singh vs. Kumar Sanjay & 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 vs. Manpreet Singh***, Transfer Application No.263 of 2009, decided on 25.11.2009, by a Co-ordinate Bench of this Court held that in terms of Section 21-A of the Hindu Marriage Act, all proceedings under the Hindu Marriage 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 were the pronouncements by this Court in the matters of ***Annu Arora vs. Rakesh Kumar***, Transfer Application

No.648 of 2011, decided on 16.12.2011 and **Bhupinder Kaur** vs. **Inderpreet Singh**, Transfer Application No.616 of 2011, decided on 09.05.2012 by a Co-ordinate Bench of this Court. In the matter of "**Leena Kalra @ Lovely** vs. **Parveen Kumar**", Transfer application No.381 of 2014, decided by this Court on 30.03.2015, the same view was endorsed.

In view of the law cited above and the facts that the petitioner is a handicapped woman; has a five years old female baby to maintain; has no source of income to go to Mohali from Barnala which is at the distance of 140 kilometres and one more civil case is pending between the same parties at Barnala, the case No.94 dated 26.07.2012 tilted as "**Baldev Singh** vs. **Harpreet Kaur**" pending adjudication before learned Additional District Judge, Mohali is transferred to the Board of learned District Judge, Barnala.

The transferee Court may try the case itself or assign it to any other Court of competent jurisdiction within the Session Division, Barnala.

Learned Additional District Judge, Mohali, shall send the complete record of the above said case to the transferee court immediately.

The parties to the *lis* shall appear before the transferee Court on 21.08.2015 at 10.00 a.m. for further proceedings.

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

July 21, 2015
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