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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

T.A. No. 787 of 2013

Date of Decision : March 19th, 2015

Shalini Petitioner

Versus

Varun Goel Respondent

CORAM : HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON

Present Mr. Mohan Singh Rana, Advocate,
for the petitioner.

Mr. Rajesh K. Sharma, Advocate,
for the respondent.

Dr. BHARAT BHUSHAN PARSOON, J.

The petitioner seeks transfer of petition under Section 13 of the Hindu Marriage Act, 1955 (for short, the Act) filed by the husband, respondent herein, from the court of District Judge, [Family Court], Ambala to the court of competent jurisdiction at Yamuna Nagar, District Yamuna Nagar, Haryana.

2. It is claimed that following three matters are pending before different Courts at Saharnpur [Uttar Pradesh]:-

1. Petition under Section 9 of the Act;
2. Petition under Section 125 Cr.P.C; and,
3. Criminal complaint inter alia under Section 498-A IPC read with Sections 3 & 4 of Prevention of Dowry Act.

3. Transfer of the petition to the competent Court at Yamuna Nagar is sought pleading that all the witnesses in the divorce petition, sought to be transferred, are residents of Saharanpur or nearby areas and it will not be possible for the petitioner to examine those witnesses at Ambala which is at a distance of 130 Kms. from Saharanpur. It is claimed that Yamuna Nagar is near to Saharnpur than Ambala.

4. This petition for transfer has been strongly resisted by the respondent-husband claiming that the petitioner wife had even earlier approached Hon`ble Supreme Court of India by filing Transfer Petition No. 1139 of 2013 for transfer of the stated petition, but her request was declined vide order dated 28.10.2013. It is claimed that the present application for transfer, after such request having been declined by Hon`ble Apex Court, is nothing but an abuse of process of the Court.

5. During the course of hearing, it has not been disputed that the petitioner had earlier approached Hon`ble Supreme Court of India and the Apex Court while dismissing the transfer application made the following order on 28.10.2013:-

“ Having regard to the short distance between Ambala, Haryana and Saharpur, Uttar Pradesh, we are satisfied that this is not a fit case for invocation of our jurisdiction for transfer of matrimonial case being O.S. No. 130 of 2013, titled as 'Varun Goel V. Shalini' from the Family Court, Ambala, Haryana to the Family Court, Saharanpur, Uttar Pradesh.

Even though three matters are pending in the court at Saharanpur, it does not cause inconvenience to the parties, looking to the short distance, if the fourth matter is decided by the court at Ambala.

Transfer petition is dismissed.”

6. After having verdict from Hon`ble Supreme Court of India, filing of present petition seeking transfer of divorce petition under Section 13 of the Act is nothing but misuse of the process of the Court. The petition is dismissed with costs of ₹5,000/- payable to the opposite party.

(Dr. BHARAT BHUSHAN PARSOON)
JUDGE

March 19th, 2015
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