

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

TA No.180 of 2015.

Date of Decision: 07.12.2015.

Reeta

....Petitioner.

VERSUS

Joginder Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. B.K. Chopra, Advocate for
Mr. Pankaj Bali, Advocate for the petitioner.

Respondent Joginder Singh in person.

SNEH PRASHAR, J.

Smt. Reeta petitioner-wife has filed this petition invoking the provisions of Section 24 of the Code of Civil Procedure seeking transfer of the petition filed under Section 13 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by respondent-husband from the Court of Additional District Judge, Yamunanagar to the Court of competent jurisdiction at Karnal.

The submissions made by Mr. D.K. Chopra, learned counsel representing the petitioner and the respondent appearing in person have been heard.

It is submitted on behalf of the petitioner that she was married to the respondent on 10.12.2009 as per Hindu rites and ceremonies. After

marriage, she was treated with cruelty by the respondent-husband and his family members and ultimately on 18.04.2011 was thrown out of the matrimonial home and since then is residing with her parents. A female child born out of the wedlock is in the care and custody of the petitioner. She filed a petition under Section 9 of the Act of 1955 for restitution of conjugal rights, a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 and a petition claiming maintenance under Section 125 of the Code of Criminal Procedure against the respondent which all are pending at Karnal. Respondent has since instituted a petition under Section 13 of the Act of 1955, which is pending adjudication in the Court of Additional District Judge, Yamunanagar. Submitting that the petitioner has no independent source of income and alongwith her minor child is residing at the mercy of her parents, learned counsel sought transfer of the petition from Yamunanagar to Karnal.

The respondent resisted the prayer of the petitioner on the ground that she had left the conjugal company of the respondent of her own volition and enjoys good health for travelling from one place to another. A petition under Section 9 of the Act of 1955 filed by him against the petitioner was decided exparte but even after passing of the decree for restitution of conjugal rights she did not join his company and thus the petition under Section 9 of the Act of 1955 now filed by the petitioner is not maintainable.

Presently, the petitioner alongwith her minor child is residing with her parents at Karnal. Three cases arising out of the marital discord

between the parties are already pending at Karnal in which the respondent must be appearing. The distance between Karnal and Yamunanagar is about 60 kilometers. The petitioner has a small child, so it will indeed be difficult for her to attend the hearings before the Court at Yamunanagar by travelling such distance 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, considering the facts discussed above, the petition filed by the respondent under Section 13 of the Act of 1955 pending in the Court of learned Additional District Judge, Yamunanagar is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Karnal. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Karnal within two weeks from the date of receipt of copy of this order, who will either keep the petition himself/herself or will entrust the same to any other Court of competent jurisdiction at Karnal.

The parties are directed to appear before the District Judge, Karnal on 15.01.2016.

(SNEH PRASHAR)
JUDGE

07.12.2015.
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