

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

TA No.415 of 2015.

Date of Decision: 08.12.2015.

Shilpa

....Applicant.

VERSUS

Vimal

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Parminder Singh, Advocate for the applicant.
Mr. Arun Sharma, Advocate for the respondent.

SNEH PRASHAR, J.

Invoking the provisions of Section 24 read with Section 151 of the Code of Civil Procedure, applicant Smt. Shilpa-wife filed this application seeking transfer of the Civil Suit for permanent injunction filed by respondent-husband from the Court of Additional Civil Judge (Senior Division), Samalkha, District Panipat to the Court of competent jurisdiction at Karnal.

Power of Attorney on behalf of the respondent has been filed. Learned counsel for the petitioner has produced copy of order dated 16.07.2015 passed by this Court in IOIN-TA No.369 of 2015 vide which the petition under Section 9 of the Hindu Marriage Act, 1955 filed by the respondent-husband was transferred from Panipat to Karnal, which is taken on record.

The submissions made by Mr. Parminder Singh, learned

counsel representing the applicant and Mr. Arun Sharma, learned counsel representing the respondent have been heard.

It is submitted on behalf of the applicant that she was married to the respondent on 13.05.2013 as per Hindu rites and ceremonies. Her previous husband expired and she has a four years' daughter from her previous marriage. After marriage with the respondent, she alongwith her daughter started residing with the respondent but was treated with cruelty by the respondent-husband and his family members and was ultimately thrown out of the matrimonial home and since then is residing with her parents. She also filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure against the respondent which is pending at Karnal. The respondent filed a petition under Section 9 of the Act of 1955 which already stands transferred from Panipat to Karnal by this Court. Respondent has since instituted a suit for permanent injunction seeking a permanent injunctive order restraining her from solemnizing another marriage. Submitting that the applicant has no independent source of income and is residing at the mercy of her parents, learned counsel sought transfer of the petition from Samalkha, District Panipat to Karnal.

Learned counsel for the respondent resisted the prayer of the applicant on the ground that he is ready to keep and maintain her but she has herself withdrawn from his conjugal company without any reasonable cause.

Admittedly, the applicant is residing with her parents at Karnal and has a minor daughter. The distance between Karnal and Samalkha,

District Panipat is about 60 kilometers. Two cases arising out of the marital discord between the parties, one under Section 125 Cr.P.C. filed by the applicant and the another under Section 9 of the Act of 1955 filed by the respondent are already pending at Karnal. The respondent must be already appearing in those cases at Karnal. As such, in my considered opinion, it will be appropriate that the suit filed by the respondent is also transferred to Karnal so that the applicant can be saved of the harassment of travelling. 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 civil suit for permanent injunction filed by the respondent pending in the Court of learned Additional Civil Judge (Senior Division), Samalkha, District Panipat 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 entrust the same to the Court of competent jurisdiction at Karnal.

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

(SNEH PRASHAR)
JUDGE

08.12.2015.
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