

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

TA No.421 of 2015.

Date of Decision: 04.09.2015.

Kulwinder Kaur

....Petitioner.

VERSUS

Mukesh Kumar

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Bhupinder Singh, Advocate for
Mr. Munish Gupta, Advocate for the petitioner.

None for the respondent.

SNEH PRASHAR, J.

This is a petition by wife-petitioner Smt. Kulwinder Kaur under Section 24 of the Code of Civil Procedure (for short, "C.P.C.") seeking transfer of the application filed by the respondent for taking custody of minor son Jashanpreet, from the Court of Additional Civil Judge (Senior Division), Hoshiarpur to the Court of competent jurisdiction at Shaheed Bhagat Singh Nagar (Nawanshahar).

Notice sent to the respondent was received by his father but none has appeared on his behalf. As such, he is proceeded against exparte.

The submissions made by learned counsel representing the petitioner have been considered.

The plea of the petitioner is that she was ill treated by the

respondent and his family members and was turned out of the matrimonial home alongwith her minor son in January, 2013. With the intervention of respectables and elders the issue was resolved and a petition under Section 13-B of the Hindu Marriage Act, 1955 (for short, "the Act of 1988") was filed and it was agreed that the minor would remain in her custody. Accordingly, vide judgment dated 05.01.2015 the marriage between the parties was dissolved by mutual consent. The respondent has since filed an application under the Guardians and Wards Act for custody of minor son namely Jashanpreet, which is pending adjudication in the court of Additional Civil Judge (Senior Division), Hoshiarpur.

Submitting that due to financial and physical difficulties, it is inconvenient for her to travel alone alongwith the minor child aged 6-7 years from Shaheed Bhagat Singh Nagar to Hoshiarpur to defend the petition and her father is an aged person, learned counsel for the petitioner seeks transfer of the application filed under Guardians and Wards Act pending before Additional Civil Judge (Senior Division), Hoshiarpur to Shaheed Bhagat Singh Nagar (Nawanshahar).

Parties to the lis are since divorced. The petitioner alongwith her minor son is residing with her parents at Shaheed Bhagat Singh Nagar (Nawanshahar). The distance between Shaheed Bhagat Singh Nagar and Hoshiarpur is about 60 kilometers. It will indeed be difficult for the petitioner to frequently travel alongwith her minor son, who is studying in U.K.G. for attending the hearings in the Court 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, the application filed by the respondent under the Guardians and Wards Act pending in the Court of learned Additional Civil Judge (Senior Division), Hoshiarpur is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Shaheed Bhagat Singh Nagar (Nawanshahar). The file shall be sent by the trial Court to the Court of District and Sessions Judge, Shaheed Bhagat Singh Nagar (Nawanshahar) 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 Shaheed Bhagat Singh Nagar (Nawanshahar).

The parties are directed to appear before the District Judge, Shaheed Bhagat Singh Nagar (Nawanshahar) on 05.10.2015.

(SNEH PRASHAR)
JUDGE

04.09.2015.
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