

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

TA No.446 of 2015.

Date of Decision: 02.09.2015.

Jaswinder Kaur

....Petitioner.

VERSUS

Harjinder Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. R.K. Chauhan, Advocate for the petitioner.
None for the respondent.

SNEH PRASHAR, J.

This is a petition by wife-petitioner Smt. Jaswinder Kaur under Section 24 of the Code of Civil Procedure (for short, "C.P.C.") seeking transfer of the petition filed under Section 9 of the Hindu Marriage Act, 1955 (for short, "the Act of 1955") by respondent-husband from the Court of Civil Judge (Senior Division), Jalandhar to the Court of competent jurisdiction at Hoshiarpur.

Notice of the petition issued to the respondent was received back duly served but none appeared on behalf of the respondent.

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

It was submitted on behalf of the petitioner that she was married to the respondent 3-1/2 years ago according to Sikh rites at Hoshiarpur and a daughter was born out of the wedlock. After marriage, she

was being treated with cruelty by the respondent-husband and his family members and was forced to leave the matrimonial home and is presently residing with her parents at village Jian, District Hoshiarpur. A petition claiming maintenance under Section 125 of the Code of Criminal Procedure (for short, "Cr.P.C.") has been filed by the petitioner at Hoshiarpur. Respondent has since filed a petition Section 9 of the Act of 1955, which is pending adjudication in the court of Civil Judge (Senior Division), Jalandhar.

Submitting that the petitioner is a poor lady and has no independent source of income and is residing at the mercy of her parents, learned counsel sought transfer of the petition filed under Section 9 of the Act of 1955 pending before Civil Judge (Senior Division), Jalandhar to District Courts, Hoshiarpur.

The petitioner alongwith her minor child is presently residing with her parents at village Jian, District Hoshiarpur. The distance between Hoshiarpur and Jalandhar is about 45 kilometers. It will indeed be difficult for her to travel with the small child to contest the petition initiated by the husband, whereas a petition filed by her under Section 125 Cr.P.C. against the husband is already pending at Hoshiarpur. 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, in view of the facts discussed above, the petition filed by the respondent under Section 9 of the Act of 1955 pending in the

Court of learned Civil Judge (Senior Division), Jalandhar is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Hoshiarpur. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Hoshiarpur 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 Hoshiarpur.

The parties are directed to appear before the District Judge, Hoshiarpur on 29.09.2015.

(SNEH PRASHAR)
JUDGE

02.09.2015.
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