

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

TA No.459 of 2015.

Date of Decision: 30.11.2015.

Mamta Kaur

....Petitioner.

VERSUS

Rajvir Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Petitioner Mamta Kaur in person with
Mr. Ashok Kumar Sharma, Advocate.

None for the respondent.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure was filed by Smt. Mamta Kaur-wife 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 learned Additional Civil Judge (Senior Division), Khanna, District Ludhiana to the Court of competent jurisdiction at Patiala.

Despite direction, neither the respondent-husband has appeared in person nor anyone put in appearance on his behalf today, whereas the petitioner-wife is personally present. The respondent is thus proceeded against exparte.

The submissions made by Mr. Ashok Kumar Sharma, learned counsel representing the petitioner have been considered.

It is submitted on behalf of the petitioner that she was married to the respondent on 06.10.2013 as per Sikh rites by way of Anand Karaj. After marriage, she was treated with cruelty by the respondent-husband and his family members and ultimately on 09.03.2015 was forced to leave the matrimonial home and since then is residing with her parents. She filed a petition under Section 13 of the Act of 1955 which is pending at Patiala. Respondent has since instituted a petition under Section 9 of the Act of 1955, which is pending adjudication in the Court of Additional Civil Judge (Senior Division), Khanna, District Ludhiana. 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 to Patiala.

Admittedly, the petitioner is residing with her parents at Patiala. One case arising out of the marital discord between the parties is already pending at Patiala. The distance between Patiala and Khanna, District Ludhiana is about 80 kilometers. It will indeed be difficult for the petitioner to attend the hearings before the Court and defend the petition by travelling such a distance. 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. Moreover, to avoid

conflicting judgments the petition under Section 13 of the Act of 1955 filed by the petitioner and that of the respondent under Section 9 of the Act of 1955 have to be tried together.

Accordingly, considering the facts discussed above, the petition filed by the respondent under Section 9 of the Act of 1955 pending in the Court of learned Additional Civil Judge (Senior Division), Khanna, District Ludhiana is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Patiala. The file shall be sent by the trial Court to the District and Sessions Judge, Patiala 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 Patiala.

The parties are directed to appear before the District Judge, Patiala on 12.01.2016.

(SNEH PRASHAR)
JUDGE

30.11.2015.
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