

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

TA No.548 of 2015.

Date of Decision: 26.11.2015.

Ruhi Choudhary

....Petitioner.

VERSUS

Kamaldeep Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Rohiteshwar Singh, Advocate for the petitioner.

None for the respondent.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure was filed by Smt. Ruhi Choudhary-wife, 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 learned Additional District Judge, Chandigarh to the Court of competent jurisdiction at Pathankot.

Despite the respondent having been served through his mother neither he has appeared in person nor anyone has put in appearance on his behalf. He is, thus, proceeded against exparte.

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

It is submitted on behalf of the petitioner that she was married to the respondent on 06.02.2011 as per Hindu rites and ceremonies. After marriage, she was treated with cruelty by the respondent-husband and his family members and was ultimately thrown out of the matrimonial home and is since residing with her parents. She filed a petition under Section 9 of the Act of 1955 and a petition claiming maintenance under Section 125 of the Code of Criminal Procedure which are pending at Pathankot. Respondent has since filed a petition under Section 13 of the Act of 1955, which is pending adjudication in the court of Additional District Judge, Chandigarh. 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 Pathankot.

Presently, the petitioner is residing with her parents at Pathankot. Two cases arising out of the marital discord between the parties are already pending at Pathankot. The distance between Pathankot and Chandigarh is about 245 kilometers. It will indeed be difficult for the petitioner to travel such long distance to attend the hearings at Chandigarh where the respondent-husband must be appearing in the other two cases initiated by the petitioner at Pathankot. Moreso, the two petitions under the Act of 1955 i.e. under Section 9 filed by the petitioner and under Section 13 filed by the respondent have to be tried together. 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, Chandigarh is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Pathankot. The file shall be sent by the trial Court to the District and Sessions Judge, Pathankot 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 Pathankot.

The parties are directed to appear before the District Judge, Pathankot on 08.01.2016.

(SNEH PRASHAR)
JUDGE

26.11.2015.
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