

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

TA No.609 of 2015 (O&M).

Date of Decision: 10.12.2015.

Jaswant Kaur @ Radhika

....Petitioner.

VERSUS

Shiv Kumar

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Ashok Bhardwaj, Advocate for the petitioner.

None for the respondent.

SNEH PRASHAR, J.

Invoking the provisions of Section 24 of the Code of Civil Procedure Smt. Jaswant Kaur @ Radhika-wife has initiated this application seeking transfer of the petition under Section 13 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) filed by respondent-husband from the Court of learned District Judge, Family Court, Moga to the Court of competent jurisdiction at Sangrur.

Despite the notice having been received back duly served on the respondent 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 Mr. Ashok Bhardwaj, learned

counsel representing the petitioner have been considered.

It is submitted on behalf of the petitioner that she was married to the respondent on 29.04.2013 at Sangrur. Prior to her marriage with the respondent, the respondent had three children from his first marriage and they are residing with him. After marriage, she was treated with cruelty by the respondent-husband and his family members and was ultimately left at her parental home and is since then residing with her mother. She filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the respondent which is pending at Sangrur. She also filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure at Sangrur in which an interim order was passed on 20.02.2015 and against that order an execution application filed by the petitioner and a revision filed by the respondent are pending at Sangrur. Respondent has since filed a petition under Section 13 of the Act of 1955, which is pending adjudication in the Court of District Judge, Family Court, Moga. Submitting that the petitioner has no independent source of income and is residing at the mercy of her mother, learned counsel sought transfer of the petition to Sangrur.

Presently, the petitioner is residing with her mother at Sangrur. Three cases arising out of the marital discord between the parties and filed by the petitioner are pending at Sangrur. The revision petition filed by the respondent himself assailing the order of interim maintenance in favour of the petitioner is also pending at Sangrur. The distance between Sangrur and Moga is about 125 kilometers. When the respondent is already appearing in

other matters pending at Sangrur, it will be in the interest of both the parties that the petition under Section 13 of the Act of 1955 filed by the respondent is also transferred to the same place. Apart from being inconvenient for the petitioner to travel, the expenses on travelling is also 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, 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 District Judge, Family Court, Moga is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Sangrur. The file shall be sent by the trial Court to the District and Sessions Judge, Sangrur 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 Sangrur.

The parties are directed to appear before the District Judge, Sangrur on 18.01.2016.

(SNEH PRASHAR)
JUDGE

10.12.2015.
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