

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

TA No.635 of 2015.

Date of Decision: 11.12.2015.

Jyoti

....Petitioner.

VERSUS

Kamal Chopra

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Pankaj Midha, 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. Jyoti-wife seeking transfer of the petition under Section 9 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) filed by respondent-husband from the Court of learned District Judge/ Additional Civil Judge (Senior Division), Panipat to the Court of competent jurisdiction at Jind.

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. Pankaj Midha, learned counsel representing the petitioner have been considered.

It is submitted on behalf of the petitioner that she was married

to the respondent on 13.04.2012 as per Hindu rites and ceremonies. After marriage, she was treated with cruelty by the respondent-husband and his family members and ultimately on 18.05.2014 was thrown out of the matrimonial home and since then is residing with her parents. It was second marriage of the petitioner as well as the respondent. From her first marriage the petitioner has two minor children whereas the respondent has three children from his first marriage. She filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the respondent and two petitions under Section 125 of the Code of Criminal Procedure, one for claiming maintenance for herself and another for claiming maintenance for her minor children, which are pending at Jind. Two revisions against an interim order passed in the petition for maintenance, one filed by her and another filed by the respondent are also pending at Jind. Respondent has since instituted a petition under Section 9 of the Act of 1955, which is pending adjudication in the Court of District Judge/ Additional Civil Judge (Senior Division), Panipat. 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 Jind.

Admittedly, the petitioner alongwith her minor children is residing with her parents at Jind. Five cases arising out of the marital discord between the parties, four filed by the petitioner and one filed by the respondent himself, are already pending at Jind in which the respondent must be appearing. The distance between Jind and Panipat is about 80

kilometers. While it will be difficult for the petitioner, having minor children to travel such long distance for attending hearings in the petition, the respondent who is already appearing in other matters pending at Panipat can pursue his petition there. 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, 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 District Judge/ Additional Civil Judge (Senior Division), Panipat is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Jind. The file shall be sent by the trial Court to the District and Sessions Judge, Jind 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 Jind.

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

(SNEH PRASHAR)
JUDGE

11.12.2015.
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