

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-127-2014

Date of Decision: July 24, 2015

Shweta Yadav

...Petitioner

Versus

Naveen Kumar Yadav

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Vaibhav Sehgal, Advocate,
for the petitioner.

None for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition filed under Section 24 of the Code of Civil Procedure, 1908, is for transfer of the petition, titled as "Naveen Kumar Yadav v. Sweta @ Sheela", filed under Section 9 of the Hindu Marriage Act, 1955 (for brevity, 'the Act'), from the Court of learned District Judge, Family Court, Ambala, to a Court of competent jurisdiction at Jalandhar.

Learned counsel contends that due to harsh nature of the respondent-husband it was not possible for the petitioner-wife to pull any more with him. She was forced to leave the matrimonial

house at Ambala and thereafter she took shelter at her parental house at Jalandhar. She moved an application before the Women Cell at Jalandhar, then the respondent-husband effected a compromise with the petitioner-wife. However, the respondent-husband did not abide by the terms and conditions of the said compromise. Thereafter the respondent-husband filed a petition under Section 9 of the Act before the Court at Ambala.

Learned counsel further points out that the petitioner being a lady and not working anywhere, has no source of income and, as such, she is unable to go to Ambala on each and every date of hearing to defend the case filed by the respondent-husband against her. He further points out that father of the petitioner has since died and there is no adult male member in the parental house of the petitioner. It has also been pointed out that Ambala is located at a distance of around 166 Kms. from Jalandhar.

Notice of motion of the present petition was issued to the respondent, but despite service no one has put in appearance on his behalf, thus, he was proceeded against *ex parte* by a Coordinate Bench of this Court vide order dated 20.1.2015.

I have heard learned counsel for the petitioner and with his able assistance gone through the material available on record.

In the matter of **Sumita Singh v. Kumar Sanjay and another**, AIR 2002 SC 396, Hon'ble the Supreme Court while

dealing with the petition under Section 24, CPC, for transfer of a matrimonial case held that *“it is the wife's convenience that must be looked at”*. In **Jitender Kaur v. Manpreet Singh** (TA No. 263 of 2009, decided on 25.11.2009), a Co-ordinate Bench of this Court held that in terms of Section 21-A of the Act, all proceedings under the Act have to be tried by the same Court, therefore, a petition under Section 13 of the Act, filed by the respondent in the said case, was ordered to be tried by the same court which was seized of earlier proceedings under Section 9 of the Act.

Similar view was taken in the matters of **Annu Arora v. Rakesh Kumar** (TA No. 648 of 2011, decided on 16.12.2011); **Bupinder Kaur v. Inderpreet Singh** (TA No. 616 of 2011, decided on 09.05.2012); **Leena Kalra @ Lovely v. Parveen Kumar** (TA No. 381 of 2014, decided on 30.03.2015); and **Suman v. Baldev Singh** (TA No. 637 of 2013, decided on 3.7.2015).

There appears to be substance in the submissions made by learned counsel for the petitioner-wife when he submits that there is no adult male member in the parental family of the petitioner to accompany her to Ambala from Jalandhar to defend the case filed by the respondent-husband. There also appears to be substance in the submission of learned counsel for the petitioner when it was submitted that the petitioner being unemployed, has no source of income.

In view of the totality of the facts and circumstances of the case and the ratio of the judgments delivered by Hon'ble the Supreme Court and this Court, the case titled as "Naveen Kumar Yadav v. Sweta @ Sheela", filed under Section 9 of the Act by the respondent-husband, is transferred from the Board of learned District Judge, Family Court, Ambala, to the Court of learned District Judge, Jalandhar, who shall either try the case himself or assign the same to any other Court of competent jurisdiction within Sessions Division, Jalandhar.

Learned District Judge, Family Court, Ambala, shall send the complete record of the case "Naveen Kumar Yadav v. Sweta @ Sheela", filed under Section 9 of the Act by the respondent-husband, to the Court of learned District Judge, Jalandhar, immediately.

The parties to the *lis* are directed to appear before learned District Judge, Jalandhar, on 24.8.2015, at 10:00 a.m., for further proceedings.

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

July 24, 2015
Pkapoor