

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

TA No.148 of 2014.

Date of Decision: 20.10.2015.

Santra

....Petitioner.

VERSUS

Surma

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Ravinder Hooda, Advocate for the petitioner.

Mr. Lalit Yadav, Advocate for

Mr. Kanwar Satbir Singh, Advocate for the respondent.

SNEH PRASHAR, J.

This petition under Section 24 of the Code of Civil Procedure was filed by Smt. Santra-wife seeking transfer of the Civil Suit for declaration with consequential relief of permanent injunction filed by respondent-husband from the Court of Civil Judge (Senior Division), Jind to the Court of competent jurisdiction at Rohtak.

The submissions made by Mr. Ravinder Hooda, learned counsel representing the petitioner and Mr. Lalit Yadav, learned counsel representing the respondent have been heard.

It is submitted on behalf of the petitioner that she was married to the respondent in the year 1994. 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 since then is residing with her parents. Having faced the cruelties at the hands of the respondent and his family members, she filed an application under the Protection of Women from Domestic Violence, Act, 2005 (for short, "D.V. Act") in the Women Cell, Rohtak and when the matter could not be settled, the application was referred to the Magistrate at Rohtak. She also filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure (for short, "Cr.P.C.") against the respondent which is pending at Rohtak. Respondent has since instituted a suit for declaration with consequential relief of permanent injunction to the effect that she is not his wife and he has no relation with her. The said suit is pending adjudication in the Court of Civil Judge (Senior Division), Jind. 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 from Jind to Rohtak.

Learned counsel for the respondent resisted the prayer of the petitioner on the ground that in the year 1994 the respondent was a minor and no marriage has ever been solemnized between the respondent and the petitioner.

Admittedly, the petitioner is residing with her parents at Dhamar, District Rohtak. The distance between Rohtak and Jind is about 60 kilometers. Despite repeated directions, the respondent has not appeared in person in the Court. Two cases initiated by the petitioner against the respondent are already pending at Rohtak. The respondent must be already

appearing in those cases at Rohtak. Therefore, it will be appropriate that the suit filed by the respondent is also transferred to Rohtak so that the petitioner can be saved of the harassment of travelling. 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 civil suit for declaration with consequential relief of permanent injunction filed by the respondent pending in the Court of learned Civil Judge (Senior Division), Jind is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Rohtak. The file shall be sent by the trial Court to the Court of District and Sessions Judge, Rohtak within two weeks from the date of receipt of copy of this order, who will entrust the same to the Court of competent jurisdiction at Rohtak.

The parties are directed to appear before the District Judge, Rohtak on 27.11.2015.

(SNEH PRASHAR)
JUDGE

20.10.2015.
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