

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-154-2014 (O&M)

Date of Decision: July 6, 2015

Manju Sharma

...Petitioner

Versus

Rajinder Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Puneet Sharma, Advocate,
for the petitioner.

Mr. Namit Gautam, Advocate,
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)

CM No.5048 of 2014

After hearing learned counsel for the parties and going through the contents of the application which is supported by an affidavit, the applicant is exempted from filing certified copies of Annexures P1 and P2.

CM disposed of.

TA No.154 of 2014

The present petition has been filed under Section 24 of

Civil Procedure Code (for brevity 'the CPC') for transfer of petition under Section 25 of Guardian and Ward Act titled as 'Rajinder Kumar vs. Manju Sharma', from the Court of Civil Judge (Senior Division), Ludhiana to the Court of Competent Jurisdiction at Amritsar.

Learned counsel contends that the petitioner-wife along with her two minor children is residing at Amritsar; two cases arising out of Protection of Women from Domestic Violence Act, 2005 and under Section 125 Cr.P.C. respectively, are pending adjudication at Amritsar and that the petitioner-wife is a IV Class employee in a bank at Amritsar and as such it will not be possible for her to go to Ludhiana on each date of hearing to defend the case filed by the respondent-husband.

Learned counsel for the respondent-husband has not controverted the pendency of the two cases at Amritsar. It has also not been denied that the two minor children are residing with the petitioner. However, he has opposed the transfer of the case from Ludhiana to Amritsar.

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

In the matter of ***Sumita Singh vs. Kumar Sanjay & 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 vs. Manpreet Singh***, Transfer Application No.263 of 2009, decided on 25.11.2009, by a Co-ordinate Bench of this Court held that in terms of Section 21-A of the Hindu Marriage Act, all proceedings under the Hindu Marriage Act have to be tried by the same Court, therefore, a petition under Section 13 of the Hindu Marriage Act filed by the respondent has to be tried by the same court which is seized of earlier proceedings under Section 9 of the Act.

Similar were the pronouncements by this Court in the matters of ***Annu Arora vs. Rakesh Kumar***, Transfer Application No.648 of 2011, decided on 16.12.2011 and ***Bupinder Kaur vs. Inderpreet Singh***, Transfer Application No.616 of 2011, decided on 09.05.2012 by a Co-ordinate Bench of this Court. In the matter of “***Leena Kalra @ Lovely vs. Parveen Kumar***”, Transfer application No.381 of 2014, decided by this Court on 30.03.2015, the same view was endorsed.

There is no dispute that the petitioner is a wife and maintaining her two minor children. Two more cases are pending at different Courts at Amritsar. It is also not in dispute that convenience of the wife has to be seen while adjudicating the Transfer Applications.

Taking into consideration the factual and legal aspects

of the case, the petition titled as 'Rajinder Kumar vs. Manju Sharma' detailed in the initial part of this order, is transferred to the Board of learned Civil Judge (Senior Division) Amritsar, who shall either try the case himself or assign to any other Court of Competent Jurisdiction within the Sessions Division, Amritsar. The Civil Judge (Senior Division), Ludhiana shall send the complete record of the above stated case to the office of learned Civil Judge (Senior Division), Amritsar immediately.

The parties to the lis shall appear before learned Civil Judge (Senior Division), Amritsar on 07.08.2015 at 10.00 am. for further proceedings.

Disposed of.

(NARESH KUMAR SANGHI)
JUDGE

July 6, 2015

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