

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-172-2014 (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)

The present petition has been filed under Section 24 of Civil Procedure Code (for brevity 'the CPC') for transfer of suit for grant of permanent injunction 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 and that in the similar circumstances, another case pending between the same parties has been transferred to the Court of Competent Jurisdiction

at Amritsar by this Court vide order of even date.

Learned counsel for the respondent has placed reliance on Section 16 of the CPC to urge that the property in dispute is situate at Ludhiana and as such the case might not be transferred to Amritsar.

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

To deal with the legal issue raised by learned counsel for the respondent that by virtue of Section 16 of the CPC, the case should not be transferred to Amritsar, does not appear to be correct. Sub-Section (5) of Section 24 of the CPC clearly spells out that a suit or proceeding may be transferred under this Section from a Court which has no jurisdiction to try it. Therefore, the said argument of learned counsel for the respondent does not appear to be correct.

The contention raised by learned counsel for the petitioner is that two minor children are residing with the petitioner-wife and two more cases going on between the same parties, are pending at Amritsar and yet another case between the same parties vide order of even date has been transferred to Amritsar, therefore, the case in hand can be transferred to the Court of Competent Jurisdiction at Amritsar.

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 of the 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, 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.

In view of the factual and legal aspects of the case, the petition titled '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 a.m. for further proceedings.

Disposed of.

(NARESH KUMAR SANGHI)
JUDGE

July 6, 2015

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