

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

TA-297-2014

Date of Decision: July 02, 2015

NARINDER KAUR @ NINDER KAUR

....PETITIONER

VS

DILBAGH SINGH

.....RESPONDENT

CORAM: HON'BLE MR.JUSTICE NARESH KUMAR SANGHI

Present: Sh. H.S. Batth, Advocate,
for the petitioner.

None for the respondent-husband.

- 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 CPC for transfer of petition titled as "Dilbagh Singh Vs. Narinder Kaur @ Ninder Kaur" under Section 9 of Hindu Marriage Act, 1955 pending adjudication from the Court of learned Civil Judge (Senior Division), Tarn Taran to the Court of competent jurisdiction at Ferozepur.

The learned counsel for the petitioner contends that marriage of the petitioner-wife with the respondent-husband

was solemnized about 7 years ago. Two children were born out of said marriage; one is residing with the petitioner-wife at Ferozepur. He further submits that due to indecent behaviour of the respondent-husband, the petitioner could not pull on well with him and as such she was forced to leave the matrimonial house along with minor child and she had to take shelter at her parents' house at Ferozepur. It was also pointed out that the petition under Section 125 Cr. P.C. was filed by the petitioner-wife at Ferozepur against her husband for grant of maintenance. The said petition is pending adjudication at Ferozepur.

In retaliation of the said application for grant of maintenance, the respondent-husband has filed a petition under Section 9 of Hindu Marriage Act at Tarn Taran.

The petitioner being a lady and mother of a minor child is unable to visit Tarn Taran to defend her case on each and every date. He submits that the petition under Section 9 of Hindu Marriage Act narrated hereinabove may be transferred to Ferozepur.

Despite service, no one has put in appearance for the respondent-husband.

I have heard learned counsel for the petitioner and with his able assistance going 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.

Keeping in view the facts narrated by the counsel

for the petitioner and the case law on this subject, petition titled as “Dilbagh Singh Vs. Narinder Kaur @ Ninder Kaur” under Section 9 of Hindu Marriage Act pending adjudication before the learned Civil Judge (Senior Division), Tarn Taran is transferred to the Court of learned Civil Judge (Senior Division) at Ferozepur, who shall himself retain the case on his own Board or assign the same to any other Court of competent jurisdiction at Ferozepur for trial as per law. The learned Civil Judge (Senior Division), Tarn Taran is directed to send the complete record of the case titled as “Dilbagh Singh Vs. Narinder Kaur @ Ninder Kaur” to the Court of learned Civil Judge (Senior Division), Ferozepur immediately.

The parties to the lis shall appear before learned Civil Judge (Senior Division), Ferozepur on 03.08.2015 at 10:00 am, for further proceedings.

Disposed of accordingly.

July 02, 2015
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(NARESH KUMAR SANGHI)
JUDGE