

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-316-2014 (O&M)
Date of Decision: July 24, 2015

Smt. Roshni

...Petitioner

Versus

Amarjeet

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Amit Singla, Advocate,
for the petitioner.

Mr. Ravinder Rana, 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-7384-CII-2015:

Prayer in this application is for placing on record the judgment dated 19.11.2014, passed by learned District Judge, Family Court, Hisar, and for exemption from filing certified and typed copy thereof.

After hearing learned counsel for the parties and going through the contents of the application, which is duly supported by an affidavit, the application is allowed in terms of the prayer made.

TA-316-2014:

Prayer in this petition filed under Section 24 read with Section 151 of the Code of Civil Procedure, 1908, is for transfer of the petition, titled as “Amarjeet v. Smt. Roshni”, filed under Section 13 of the Hindu Marriage Act, 1955 (for brevity, ‘the Act’), from the Court of learned District Judge, Jhajjar, to a Court of competent jurisdiction at Hisar.

In spite of best efforts made by learned counsel for the parties, the husband and wife could not effect a compromise. Both the counsel submit that the present petition be decided on merits.

Learned counsel for the petitioner-wife submits that from the very beginning the respondent-husband had a biased attitude towards the petitioner-wife. The respondent-husband after pushing out the petitioner from the matrimonial home, has solemnized the second marriage and at present the respondent-husband is residing at Pinjore, District Panchkula, while the petitioner-wife is residing at Hisar at her paternal house. He further submits that the petitioner-wife was constrained to file a petition under Section 125, Cr.P.C., before Family Court at Hisar, so that she might get some maintenance to maintain herself. The said case has been decided. He further points out that the petitioner is an illiterate lady and unable to go to Jhajjar, which is at a distance of 125 Kms. from Hisar, on each and every date of hearing to

defend the case filed by the respondent-husband. He also points out that it will make no difference for the respondent-husband to come to Jhajjar or Hisar from Pinjore, District Panchkula, to pursue his case.

Learned counsel for the respondent-husband submits that the petitioner-wife has property at Jhajjar and she is coming there off and on to maintain the same and, as such, the case filed by the respondent-husband be not transferred to some other place than Jhajjar.

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 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 submitted that the respondent-husband is residing at Pinjore, District Panchkula, and it would not make any difference for him to either come to Jhajjar or Hisar from there to pursue his case. There also appears to be force in his submission when it was submitted that the petitioner-wife is an illiterate lady and it would be very difficult for her to visit Jhajjar from Hisar on each and every date of hearing to defend the case, without the company of any male member.

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 "Amarjeet v. Smt. Roshni", filed under Section 13 of the Act by the respondent-husband, is transferred from the Board of learned District Judge, Jhajjar, to the Court of learned District Judge, Hisar, who shall either try the case himself or assign the same to any other Court of competent jurisdiction within Sessions Division, Hisar.

Learned District Judge, Jhajjar, shall send the complete record of the case “Amarjeet v. Smt. Roshni”, filed under Section 13 of the Act by the respondent-husband, to the Court of learned District Judge, Hisar, immediately.

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

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

July 24, 2015
Pkapoor