

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

TA No.372 of 2014 (O&M).
Date of Decision: 19.11.2015.

Gurpreet KaurApplicant.
VERSUS
Rattan SinghRespondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Har Karan Singh, Advocate for the applicant.

Mr. B.S. Baath, Advocate for the respondent.

SNEH PRASHAR, J.

This application under Section 24 of the Code of Civil Procedure was filed by applicant Gurpreet Kaur-wife seeking transfer of the petition filed under Section 25 of the Guardians and Wards Act, 1890 (for short, “the Act of 1890”) by the respondent, from the court of Civil Judge (Senior Division), Gurdaspur to the court of competent jurisdiction at Ajnala.

The submissions made by Mr. Har Karan Singh, learned counsel representing the applicant and Mr. B.S. Baath, learned counsel representing the respondent have been heard.

It is submitted on behalf of the applicant that she was married to Devinder Singh son of the respondent on 21.03.2003 as per Sikh rites

and a son namely, Manbir Singh Hayer @ Vishav Noor was born out of their wedlock on 29.06.2004 at Amritsar. Being unsatisfied with the dowry given by the parents of the applicant at the time of marriage, the respondent and his family members started harassing and maltreating her and ultimately she was forced to leave the matrimonial home and is since residing with her parents alongwith her minor son. The applicant filed a complaint under Section 406/498A/494/506/120-B of the Indian Penal Code in which husband of the applicant was declared proclaimed offender and the said case was decided on 04.06.2014 by Sub Divisional Judicial Magistrate, Ajnala resulting in conviction of the other accused. The respondent, being father of husband of applicant has since filed a petition under Section 25 of the Act of 1890 for custody of minor son namely Manbir Singh Hayer @ Vishav Noor, which is pending adjudication in the court of Civil Judge (Senior Division), Gurdaspur. Submitting that the applicant is a lady and because of financial and physical difficulties, it is inconvenient for her to travel alone alongwith the minor child from Ajnala, District Amritsar to Gurdaspur on every date of hearing, learned counsel sought transfer of the petition to Ajnala.

Learned counsel for the respondent resisted the application on the ground that the distance between Gurdaspur and Ajnala is only 70 kilometers and he, being an aged and ailing person, cannot travel such long distance and that the applicant has solemnized second marriage, therefore, she cannot look after the child whereas the respondent has sufficient means to maintain his minor grandson.

Admittedly, the applicant alongwith her minor son is residing at village Uthian, Tehsil Ajnala. The distance between Ajnala and Gurdaspur is about 70 kilometers. It will indeed be inconvenient/difficult for the applicant to travel such long distance alongwith the minor child from Ajnala to Gurdaspur and to unnecessarily spend on travelling. The husband of the applicant appears to be already avoiding the process of law. 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 all facts, the petition filed by the respondent under Section 25 of the Act of 1890 pending in the court of learned Civil Judge (Senior Division), Gurdaspur is withdrawn from the said court and is transferred to the court of competent jurisdiction at Amritsar. The file shall be sent by the trial court to the court of District and Sessions Judge, Amritsar 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 Ajnala, if not available at Sub Division, Ajnala then to the court of competent jurisdiction at Amritsar.

The parties are directed to appear before the District Judge, Amritsar on 06.01.2016.

(SNEH PRASHAR)
JUDGE

19.11.2015.
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