

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

**Transfer Application No.410 of 2014(O&M)
Date of Decision: May 05, 2015**

Jaswinder Kaur

...Petitioner

Versus

Lakhwinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Ashish Gupta, Advocate,
for the petitioner.

None 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-9203-CII-2015

Prayer in this application is for placing on record the copy of the petition filed under Section 13 of the Hindu Marriage Act.

After hearing learned counsel for the applicant/ petitioner and going through the contents of the application, the same is allowed. Document Annexure P-3 is taken on record subject to all just exceptions.

TA-410-2014

Office report dated 21.02.2015 reveals that the respondent was served but no one has appeared on his behalf

and as such, he is proceeded against ex parte.

The present petition has been filed under Section 24 of the Code of Civil Procedure for transfer of petition tilted as **“Lakhwinder Singh vs. Jaswinder Singh”** filed under Section 9 of the Hindu Marriage Act (Annexure A-1), pending adjudication before learned Civil Judge (Senior Division) Kapurthala, to the court of competent jurisdiction at Faridkot.

Learned counsel for the petitioner/wife contends that the petitioner/wife had filed a petition under Section 13 of the Hindu Marriage Act, tilted as **Jaswinder Kaur vs. Lakhwinder Singh** before the learned District Judge, Faridkot, on 31.03.2014 and in retaliation thereto, the respondent/husband filed a petition under Section 9 of the Hindu Marriage Act at Kapurthala on 02.04.2014. He also pointed out that the petitioner/wife has no resources to go to Kapurthala from Faridkot on each and every date of hearing to defend the case filed against her by her husband i.e respondent. It has also been pointed out that in the divorce petition filed by the petitioner/wife, the respondent/husband is regularly appearing before the court at Faridkot and as such, the other party i.e husband shall not be prejudiced if the case under Section 9 of the Hindu Marriage Act is transferred from Kapurthala to Faridkot.

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

The petition under Section 13 of the Hindu Marriage Act was filed by the petitioner/wife on 31.03.2014 before learned District Judge, Faridkot, and thereafter, a petition under

Section 9 of the Hindu Marriage Act was filed by the respondent/husband at Kapurthala on 02.04.2014. In the divorce petition filed by the petitioner/wife, the husband is regularly appearing at Faridkot.

Keeping in view the factual and legal aspects of the case, the petition titled as “**Lakhwinder Singh vs. Jaswinder Kaur**” pending before the learned Civil Judge (Senior Division), Kapurthala, is transferred to the Board of learned District Judge, Faridkot, who shall either try the said case himself/herself or assign to any other court of competent jurisdiction within his Session Division for trial in accordance with law. Learned Civil Judge (Senior Division) Kapurthala, shall send the complete record of the above said case to the Court of learned District Judge, Faridkot, as soon as the copy of this order is received.

Disposed of accordingly.

The parties to the lis shall appear before learned District Judge, Faridkot, on 29.05.2015.

May 05, 2015
seema

(Naresh Kumar Sanghi)
Judge