

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

TA No.421 of 2014.

Date of Decision: 23.12.2015.

Shallu

....Petitioner.

VERSUS

Vikas

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. K.S. Lakhanpal, Advocate for the petitioner.

None for the respondent.

SNEH PRASHAR, J.

Petitioner Smt. Shallu-wife has filed this petition invoking the provisions of Section 24 of the Code of Civil Procedure seeking transfer of the petition under Section 13 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) filed by respondent-husband from the Court of learned Additional District Judge, Chandigarh to the Court of competent jurisdiction at Patiala.

None has appeared on behalf of the respondent. On the last date of hearing also no one was present on his behalf. The respondent is thus proceeded against exparte.

The submissions made by learned counsel representing the petitioner have been considered.

It is submitted on behalf of the petitioner that she was married to the respondent on 30.04.2006 as per Hindu rites and ceremonies. After marriage, she was treated with cruelty by the respondent-husband and his family members and was ultimately thrown out of the matrimonial home and is since residing with her parents. Two children born out of the wedlock are residing under the care and custody of the petitioner. Respondent has filed a petition under Section 13 of the Act of 1955, which is pending adjudication in the court of Additional District Judge, Chandigarh. Submitting that the petitioner has no independent source of income and alongwith her minor children is residing at the mercy of her parents, learned counsel sought transfer of the petition to Patiala.

Presently, the petitioner alongwith her two minor children is residing with her parents at Patiala. Two cases, one under Section 9 of the Act of 1955 and another under the Protection of Women from Domestic Violence Act, 2005 arising out of the marital discord between the parties are stated to be already pending at Patiala. The distance between Patiala and Chandigarh is about 70 kilometers. It will indeed be difficult for the petitioner to travel such distance alongwith the minor children to attend the hearings at Chandigarh whereas the respondent-husband must be appearing in the other two cases initiated by the petitioner at Patiala. Moreso, the two petitions under the Act of 1955 i.e. under Section 9 filed by the petitioner and under Section 13 filed by the respondent have to be tried together. 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 the facts discussed above, the petition filed by the respondent under Section 13 of the Act of 1955 pending in the Court of learned Additional District Judge, Chandigarh is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Patiala. The file shall be sent by the trial Court to the District and Sessions Judge, Patiala within two weeks from the date of receipt of copy of this order, who will either keep the petition himself/ herself or will entrust the same to any other Court of competent jurisdiction at Patiala.

The parties are directed to appear before the District Judge, Patiala on 28.01.2016.

(SNEH PRASHAR)
JUDGE

23.12.2015.
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