

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

**Transfer Application No.435 of 2014
Date of Decision: March 31, 2015**

Geeta

...Petitioner

Versus

Vijay Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Lalit K. Gupta, Advocate,
for the petitioner.

Mr.Sanjay Verma, 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)

The present petition has been filed under Sections 24 and 151 of CPC for transfer of petition tilted as “**Vijay Kumar vs. Smt.Geeta**” under Section 13 of the Hindu Marriage Act, 1955 pending adjudication from the board of learned District Judge, Yamuna Nagar at Jagadhri to the court of competent jurisdiction at Ambala.

Learned counsel contends that the petitioner/wife had filed the following cases:-

(i) “**Geeta vs. Vijay Kumar**”, a suit for permanent injunction which is pending adjudication before learned Civil Judge (Jr.Divn.) Ambala;

(ii) “**Geeta vs. Vijay Kumar**”, a petition under Section 9 of the Hindu Marriage Act pending adjudication before learned District Judge, Family Court, Ambala; and

(iii) a complaint under various provisions of the Protection of Women from Domestic Violence Act pending adjudication before learned Additional Chief Judicial Magistrate, Ambala.

Learned counsel has pointed out that the first two cases were presented on 24.03.2014 while the complaint under the Protection of Women from Domestic Violence Act was presented on 29.03.2014. After issuance of the notices to the respondent/husband, he filed the petition tilted as “**Vijay Kumar vs. Geeta**” under Section 13 of the Hindu Marriage Act before learned District Judge, Yamuna Nagar at Jagadhri. He further submits that the petitioner is an illiterate lady, who is mother of two minor children, and she has no resources to go from Ambala to Yamuna Nagar to defend her case since the petition under Section 9 of the Hindu Marriage Act was filed by the petitioner/wife prior in time, therefore, as per provision of Section 21-A of the Hindu Marriage Act, the petition filed by the respondent/husband tilted as “**Vijay Kumar vs. Geeta**” pending adjudication before learned District Judge, Yamuna Nagar at Jagadhri, be transferred to the board of learned

District Judge, Family Court, Ambala.

Learned counsel for the respondent-husband submits that earlier a petition under Section 13-B of the Hindu Marriage Act was presented jointly by the parties in which at the stage of second motion, the petitioner-wife resiled from the compromise and as such, that petition was dismissed. He further submits that distance between Jagadhri and Ambala is not so much where the petitioner would face any difficulty in visiting Jagadhri from Ambala and as such, no good ground is made out for transfer of the petition from Jagadhri.

I have heard the learned counsel for the parties and with their 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.

As per learned counsel, the petitioner is an illiterate woman, who is a mother of two minor children and had filed the petition under Section 9 of the Hindu Marriage Act before learned District Judge, Family Court, Ambala on 24.03.2014 while the respondent/husband had filed the petition under Section 13 of the Hindu Marriage Act before learned District Judge, Yamuna Nagar at Jagadhri on 23.04.2014 i.e later in time. In addition to the Hindu Marriage Act case, two more cases were also filed by the petitioner-wife at Ambala.

The contention of learned counsel for the respondent-husband that earlier a petition under Section 13 B of the Hindu Marriage Act was filed by the parties and later the petitioner/wife had resiled to support the said petition, would have no relevancy for the purpose of decision of the present petition.

The other contention that the distance between Ambala and

Jagadhri is not so much by itself would be no ground for declining the prayer of the petitioner.

Keeping in view the factual and legal aspects of the case, the petition titled as **Vijay vs. Geeta** pending before the learned District Judge, Yamuna Nagar at Jagadhri, is transferred to the Board of learned District Judge, Family Court, Ambala. Learned District Judge, Yamuna Nagar at Jagadhri shall send the complete record of the above said case to the court of learned District Judge, Family Court, Ambala, as soon as the copy of this order is received.

Disposed of accordingly.

The parties shall appear before learned District Judge, Family Court, Ambala, on 30.04.2015.

March 31, 2015
seema

(Naresh Kumar Sanghi)
Judge