

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

TA-623-2014 (O&M)

Date of Decision: July 07, 2015

Lakshmi

.....Petitioner

Versus

Mahesh

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Rahul Rampal, Advocate
for the petitioner.

Respondent already proceeded against ex parte.

.....

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)

Prayer in this petition filed under Section 24 read with Section 151 of the Code of Civil Procedure (for brevity, 'the CPC') is for transfer of the petition under Section 9 of the Hindu Marriage Act, 1955 titled as "**Mahesh vs Lakshmi**" from the Court of learned Civil Judge (Senior Division) Bathinda to the Court of competent jurisdiction at Ludhiana.

Learned counsel contends that due to aggressive

nature of the respondent-husband, it was not practicable for the petitioner-wife to pull on well with him (respondent-husband). She along with her minor child was forced to leave the matrimonial house and, as such, she has to take shelter at the house of her parents at Ludhiana. Presently she is residing along with her minor child at Ludhiana. She has no source of income. Even no adult person is there with her to accompany her to Bathinda to attend the case filed by her husband.

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 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 Hindu Marriage Act, 1955, all proceedings under the said 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 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) and **Leena Kalra @ Lovely v. Parveen Kumar** (TA No. 381 of 2014, decided on 30.03.2015).

After hearing the learned counsel for the petitioner and going through the law on the subject, this Court is of the considered opinion that the case titled “**Mahesh vs Lakshmi**” should be transferred from the Court of learned Civil Judge (Senior Division) Bathinda to a Court of competent jurisdiction at Ludhiana and, as such, the same is transferred to the Board of learned Civil Judge (Senior Division) Ludhiana. The transferee Court shall either try the case itself or transfer it to a Court of competent jurisdiction within the Sessions Division, Ludhiana.

Learned Civil Judge (Senior Division) Bathinda shall remit the complete record of the case to the transferee Court immediately.

Parties to the lis are directed to appear before learned Civil Judge (Senior Division) Ludhiana, on 10.08.2015 at 10.00

a.m. for further proceedings.

Disposed of accordingly.

July 07, 2015
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(NARESH KUMAR SANGHI)
JUDGE