

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

TA No.709 of 2014 (O&M).
Date of Decision: 11.08.2015.

Monika		Petitioner.
	VERSUS	
Harjit Singh		Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. M.K. Bhatnagar, Advocate for the petitioner.
Mr. Kulbhushan Sharma, Advocate for the respondent.

SNEH PRASHAR, J.

CM-1101-2015

There is an application for placing on record reply filed on behalf of the respondent.

Allowed as prayed for.

The reply is taken on record.

TA-709-2014

This is a petition by wife-petitioner Smt. Monika under Section 24 of the Code of Civil Procedure (for short, "C.P.C.") seeking transfer of the petition filed under Section 11(1) & 12(C) of the Hindu Marriage Act, 1955 (for short, "the Act of 1955") by respondent-husband from the court of learned District Judge, Faridabad to the court of competent jurisdiction at Amritsar.

The submissions made by learned counsel representing the

petitioner and learned counsel representing the respondent have been considered.

It emerges from the rival contention of the parties that the marriage between the petitioner and the respondent was solemnized on 09.02.2014 in the presence of relatives of both the parties at Amritsar. It was submitted on behalf of the petitioner that both, she as well as the respondent, were divorcee at the time of marriage. She was thrown out of the matrimonial home when she suddenly fell ill and since then she is residing with her parents at Amritsar. After she was diagnosed of having a tumor in the breast the respondent filed a petition under Section 11(1) and 12(C) of the Act of 1955 which is pending adjudication in the court of District Judge (Family Court), Faridabad.

It was further submitted by learned counsel for the petitioner that distance between Amritsar and Faridabad is about 275 kilometers. The petitioner cannot travel such long distance due to health problem. She can also not travel alone and has to be accompanied by some of her parental family member which also is inconvenient for them. No money is being paid by the respondent to the petitioner for her maintenance and for that reason as well it is extremely difficult for her to bear the travelling expenses etc.

Resisting the prayer of the petitioner, learned counsel for the respondent submitted that the respondent has six years old child born out of his first wedlock who is studying in class-I. He has also an old mother dependent upon him and there is no one except him in the family to look

after both of them.

Admittedly, petitioner is presently residing with her parents at Amritsar. The distance from Faridabad to Amritsar is approximately 275 kilometers and it is undoubtedly inconvenient/difficult for the petitioner to travel all the way from Amritsar to Faridabad to attend the court proceedings. Moreso, it is not denied that the petitioner is facing health problem and she cannot travel alone. She is not being paid maintenance and is having no source of income to bear the financial constraints. It has been held in *Sumitra Singh vs. Kumar Sanjay and another, AIR 2002 (SC) 396* and *Neelam Kanwar vs. Devinder Singh Kanwar, 2000(43) AIR 129* that convenience of the wife has to be taken into consideration in such like matters.

Accordingly, the petition filed by the respondent under Section 11(1) and 12(C) of the Act of 1955 pending in the court of learned District Judge, Faridabad 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 Judge, Amritsar within two weeks from the date of receipt of copy of this order, who will either keep the petition himself or will entrust the same to any other competent court of jurisdiction at Amritsar.

The parties are directed to appear before the District Judge, Amritsar on 07.09.2015.

(SNEH PRASHAR)
JUDGE

11.08.2015.
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