

IN THE HIGH COURT OF PUNJAB AND HARYANA AT Mohali

TA-765-2014

Date of Decision: July 27, 2015

Paramjit Kaur Dhaliwal

...Petitioner

Versus

Harsimranjit Singh Dhaliwal

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Amrik Singh, Advocate,
for the petitioner.

Mr. Kulwant Singh Boparai, 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)

Prayer in this petition filed under Section 24 read with Section 151 of the Code of Civil Procedure, 1908, is for transfer of the petition, titled as "Harsimranjit Singh Dhaliwal v. Paramjit Kaur Dhaliwal", filed under Section 9 of the Hindu Marriage Act, 1955 (for brevity, 'the Act'), from the Court of learned Additional Civil Judge (Senior Division) Jagraon, to a Court of competent jurisdiction at S.A.S. Nagar (Mohali).

Mr. Amrik Singh, learned counsel for the petitioner contends that Paramjit Kaur Dhaliwal (petitioner) is permanent

resident of S.A.S. Nagar (Mohali); she is pursuing her Nursing course at Sohana, District S.A.S. Nagar (Mohali); she has no independent source of income at present; there is no other male member except the old father to accompany her to Jagraon on each and every date of hearing to defend the case filed by the respondent-husband; and that the distance between Jagraon and S.A.S. Nagar (Mohali) is about 130 kilometers.

Mr. Kulwant Singh Boparai, learned counsel for respondent-husband, submits that the only ground taken in the petition filed by the petitioner-wife is that the maternal uncle of Harsimranjit Singh Dhaliwal is posted as District Industries and Mining Officer and due to his influence, she has apprehension of threat to her life. He further points out that the petitioner is not permanent resident of S.A.S. Nagar (Mohali) and, as such, there would be no good ground for transferring the case from Jagraon to S.A.S. Nagar (Mohali).

I have heard learned counsel for the parties and with their 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 Act, all proceedings under the Act have to be tried by the same Court, therefore, a petition under Section 13 of the Act, filed by the respondent in the said case, was ordered to be tried by the same court which was 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); **Leena Kalra @ Lovely v. Parveen Kumar** (TA No. 381 of 2014, decided on 30.03.2015); and **Suman v. Baldev Singh** (TA No. 637 of 2013, decided on 3.7.2015).

There appears to be substance in the submissions of the learned counsel for the petitioner when it was submitted that the petitioner being a woman and pursuing her Nursing course at Sohana, District S.A.S. Nagar (Mohali) and in the said scenario it would not be possible for her to go to Jagraon to defend the case filed by the respondent-husband. There also appears to be substance in his submissions when it was disclosed that the petitioner being a student has no independent source of income. It has also been stated that except the old father, there is no other adult male member in her paternal house to accompany her to

Jagraon from S.A.S. Nagar (Mohali) on each and every date of hearing to defend the case filed by the respondent-husband.

Learned counsel for the respondent-husband has rightly pointed out that in Para No. 10 of the petition, it is averred that the petitioner has threat to her life if she visited Jagraon, since the maternal uncle of Harsimranjit Singh Dhaliwal (husband) is posted as District Industries and Mining Officer. But that point has not been pressed upon by the learned counsel for the petitioner during his submissions. There does not appear to be substance in the submission of learned counsel for the respondent that the petitioner was not a permanent resident of S.A.S. Nagar (Mohali).

In view of rival contentions raised by learned counsel for the parties and taking into consideration latest judgments on the subject, the case titled as “Harsimranjit Singh Dhaliwal v. Paramjit Kaur Dhaliwal”, filed under Section 9 of the Act by the respondent-husband, is transferred from the Board of learned Additional Civil Judge (Senior Division) Jagraon, to the Board of incharge Additional District Judge, Mohali, who shall either try the case himself or assign it to any other competent Court within his jurisdiction for trial in accordance with law.

Learned Additional Civil Judge (Senior Division) Jagraon, shall send the complete record of the case titled as “Harsimranjit Singh Dhaliwal v. Paramjit Kaur Dhaliwal”, filed

under Section 9 of the Act by the respondent-husband, to the Court of incharge Additional District Judge, Mohali, immediately.

The parties to the *lis* are directed to appear before learned Additional District Judge, Mohali, on 27.8.2015, at 10:00 a.m., for further proceedings.

Disposed of accordingly.

(NARESH KUMAR SANGHI)
JUDGE

July 27, 2015
Pkapoor