

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

TA No.86 of 2014.

Date of Decision: 03.12.2015.

Diksha

....Applicant.

VERSUS

Amit Kumar

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Gaurav Jindal, Advocate for the applicant.

Mr. Rajiv Sharma, Advocate for the respondent.

SNEH PRASHAR, J.

Applicant Smt. Diksha-wife has filed this petition invoking the provision of Section 24 read with Section 151 of the Code of Civil Procedure seeking transfer of the petition filed under Section 9 of the Hindu Marriage Act, 1955 (for short, “the Act of 1955”) by respondent-husband from the Court of learned District Judge, Family Court, Gurgaon to the Court of competent jurisdiction at Panipat.

The submissions made by Mr. Gaurav Jindal, learned counsel representing the applicant and Mr. Rajiv Sharma, learned counsel representing the respondent have been heard.

It is submitted on behalf of the applicant that she was married to the respondent on 28.02.2009 at Panipat as per Sikh rites and ceremonies.

After marriage, she was treated with cruelty by the respondent-husband and

his family members and ultimately was turned out of the matrimonial home and is since residing in her parental house. A female child born out of the wedlock is in care and custody of the applicant. She filed a petition claiming maintenance under Section 125 of the Code of Criminal Procedure and a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 which are pending at Panipat. Respondent has since instituted a petition under Section 9 of the Act of 1955, which is pending adjudication in the Court of District Judge, Family Court, Gurgaon. Submitting that the applicant has no independent source of income and alongwith her minor child is residing at the mercy of her father, learned counsel sought transfer of the petition to Panipat.

Learned counsel for the respondent resisted the prayer of the applicant on the ground that he is ready to keep and maintain her but she has herself withdrawn from his conjugal company without any reasonable cause.

The applicant alongwith her minor child is residing at her parental house at Panipat. Two cases arising out of the marital discord between the parties and filed by the applicant against the respondent are already pending at Panipat. The distance between Panipat and Gurgaon is about 120 kilometers. Travelling such a distance to attend the hearings before the Court that too alongwith the minor child will certainly be difficult for the applicant and the expenses for travelling will also be an additional financial burden on her. 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 all the facts, the petition filed by the respondent under Section 9 of the Act of 1955 pending in the Court of learned District Judge, Family Court, Gurgaon is withdrawn from the said Court and is transferred to the Court of competent jurisdiction at Panipat. The file shall be sent by the trial Court to the District and Sessions Judge, Panipat 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 Panipat.

The parties are directed to appear before the District Judge, Panipat on 14.01.2016.

(SNEH PRASHAR)
JUDGE

03.12.2015.
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