

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

TA No.257 of 2015

Date of decision: 10.03.2016

Isha

... Petitioner

Vs.

Navjiwan

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Satpreet Grewal Kapila, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner-wife, by way of instant petition under Section 24 of the Code of Civil Procedure, seeks transfer of a petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955 ('the Act' for short) at Dasuya, District Hoshiarpur to a Court of competent jurisdiction at Jalandhar.

Notice of motion was issued. However, no reply has been filed.

Learned counsel for the petitioner submits that petitioner is a handicapped lady. She is living at Jalandhar with her parents. Petitioner-wife is not having any regular source of income. More than one litigations initiated by the petitioner are pending at Jalandhar. In such a situation, petition filed by the respondent-husband at Dasuya in District Hoshiarpur deserves to be transferred at Jalandhar.

On the other hand, learned counsel for the respondent-husband submits that it is the petitioner who is causing unwarranted harassment to the

respondent-husband. He is ready and willing to stay with the petitioner. This was the reason that he had to file petition under Section 9 of the Act for restitution of conjugal rights. However, it is the petitioner-wife who is not ready to live in the matrimonial house. He seeks dismissal of the present petition.

After hearing the learned counsel for the parties at considerable length, careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the case, instant petition deserves to be allowed. Medical record in the form of Annexure P-1 available on the record would show that petitioner-wife is deaf and dumb and suffering from permanent disability to the extent of more than 90%. In such a situation, it was least expected from the respondent-husband to be more kind and compassionate to the petitioner-wife. Be that as it may, it would be not only inconvenient but very difficult for the petitioner-wife to pursue the litigation at Hoshiarpur, because she is staying with her parents at Jalandhar.

In view of what has been discussed hereinabove, it would be in the interest of justice to transfer the petition filed by the respondent-husband under Section 9 of the Act from Dasuya in District Hoshiarpur to learned Court of competent jurisdiction at Jalandhar, so as to enable the petitioner-wife to pursue the litigation without any unwarranted difficulty. Further, since other litigations are pending at Jalandhar, it would be in the fitness of things that all the litigations pending between the parties are decided by the learned Courts of competent jurisdiction at Jalandhar.

No other argument was raised.

In view of the above, instant petition is allowed. Learned District Judge, Hoshiarpur is directed to send the complete record of the petition under Section 9 of the Act filed by the respondent-husband, pending before the learned Additional Civil Judge (Sr. Divn.), Dasuya to the learned District Judge, Jalandhar at an early date but in any case within a period of one month from the date of receipt of certified copy of this order. Learned District Judge, Jalandhar shall either decide the matter himself or assign to the learned Court of competent jurisdiction so that matter is finally decided at an early date, in accordance with law.

With the abovesaid observations made and directions issued, instant petition stands disposed of.

[RAMESHWAR SINGH MALIK]
JUDGE

10.03.2016
vishnu