

TA No.285 of 2015

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

TA No.285 of 2015
Date of decision: 03.02.2016

Navjot Kaur

....Applicant

Versus

Sanjay Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) Whether Reporters of the 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 ?

Present: - Mr. Judgepreet Singh, Advocate, for the applicant.
Mr. Rajesh Narang, Advocate, for the respondent.

PARAMJEET SINGH DHALIWAL, J. (ORAL)

Reply on behalf of respondent, filed in Court today, is taken on record.

I have heard learned counsel for the parties and perused the record.

Instant application under Section 24 of the Code of Civil Procedure has been filed seeking transfer of petition under Section 13(1) (ia) of the Hindu Marriage Act, 1955 (for short 'the Act') filed by respondent-husband from the Court at Fazilka to the Court of competent jurisdiction at Mohali.

Learned counsel for the applicant contended that respondent has filed a petition under Section 13(1)(ia) of the Act, which is pending

TA No.285 of 2015

in the Court of learned Additional District Judge, Fazilka. Now applicant is residing with her parents at Mohali. It is very difficult for her to attend the proceedings at Fazilka. Learned counsel for the applicant further submitted that proceedings under Section 125 Cr.P.C. against the respondent are pending in the Court at Mohali. Learned counsel for the applicant relied upon the judgment of Hon'ble Supreme Court in ***Deepti Bhandari v. Nitin Bhandari and another***, 2012(1) R.C.R.(Civil) 506 and contended that it would be easier for the respondent-husband to attend the proceedings in Mohali than for the applicant to attend the same in Fazilka. Therefore, the case under Section 13(1)(ia) of the Act may be transferred to Mohali.

Per contra, learned counsel for the respondent contends that proceedings in petition under Section 13 of the Act are civil in nature and presence of the applicant is not required in the petition under Section 13 of the Act on each and every date. Learned counsel has made reference to the documents i.e. voter card, passport, certificates etc. annexed with the reply to contend that the applicant has mentioned the address of Fazilka.

I have considered the contentions raised by learned counsel for the parties.

Admittedly, the applicant before her marriage was residing at Fazilka with her parents and most of the documents relied upon by the respondent pertain to the period when applicant was residing at Fazilka. It is specific stand of the applicant that due to disturbance in her

TA No.285 of 2015

matrimonial house, she shifted to Mohali in search of job as she was earlier working there. Even in the statement of the applicant (Annexure R-9) annexed by the respondent himself, the applicant has specifically stated that now she is residing with her relatives at Mohali.

Section 19(iii) of the Act clearly stipulates that wife is entitled to file a petition in the Court having the jurisdiction over the area where she is residing on the date of filing the petition. Therefore, petitioner has rightly filed the petition under Section 125 Cr.P.C. in the Court at Mohali as she is stated to be residing with her parents at Mohali.

In view of the submissions made by learned counsel for the applicant, and keeping in view the decision of the Hon'ble Supreme Court in **Deepti Bhandari** (supra), application is allowed. Petition under Section 13(1)(ia) of the Act pending in the Court of learned Additional District Judge, Fazilka, is ordered to be transferred to learned Additional District Judge, Mohali, who may assign the same to the Court of competent jurisdiction there. Learned District Judge, Fazilka, shall ensure that entire record of the case is sent to learned Additional District Judge, Mohali. The parties are directed to appear before the learned Additional District Judge, Mohali on 23.02.2016.

Disposed of.

(Paramjeet Singh Dhaliwal)
Judge

February 03, 2016
R.S.