

In the High Court of Punjab and Haryana at Chandigarh

T.A. No. 819 of 2015

Date of Decision: February 09, 2016

Vandana Devi

... Applicant

Versus

Vishal Kumar

... Respondent

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. Rohiteshwar Singh, Advocate,
for the applicant.

None for the respondent.

Paramjeet Singh Dhaliwal, J. (Oral)

Instant application has been filed under Section 24 of the Code of Civil Procedure for transfer of petition bearing HMA No. 124 of 2015 under Section 9 of the Hindu Marriage Act (hereinafter referred to as the "Act") titled as "Vishal Kumar vs. Vandana Devi", pending in the Court of learned Civil Judge (Junior Division), Chandigarh to the Court of competent jurisdiction at Pathankot.

I have heard learned counsel for the applicant.

Learned counsel for the applicant contends that respondent-husband filed a petition under Section 9 of the Act for restitution of conjugal rights, which is pending before the learned Civil Judge (Junior Division), Chandigarh. The applicant has no source of income. Learned counsel further contends that the applicant is residing at the mercy of her parents at Village Dera Baba Basantpuri, District Ludhiana and it is not convenient for her to travel from Ludhiana to Chandigarh to defend

proceedings instituted by the husband. Learned counsel further contends that applicant has already filed petition under Section 125 Cr.P.C. against the respondent which is pending before the learned District Judge (Family Court), Pathankot. Learned counsel for the applicant relied upon a judgment of Hon'ble Supreme Court in **Deepti Bhandari vs. 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 Pathankot than for the applicant to attend the same in Chandigarh. Therefore, petition under Section 9 of the Act may be transferred to Pathankot.

Despite service, none has appeared on behalf of the respondent to oppose this petition.

Considering the facts that the applicant is resourceless and the convenience of the wife is to be seen, therefore, in my opinion, present application deserves to be allowed.

In view of the submissions made by learned counsel for the applicant and keeping in view the decision of Hon'ble Supreme Court in **Deepti Bhandari (supra)**, transfer application is allowed. Petition under Section 9 of the Act filed by the respondent titled "Vishal Kumar vs. Vandana Devi", pending in the Court of learned Civil Judge (Junior Division), Chandigarh is withdrawn and ordered to be transferred to learned District Judge, Pathankot, who may assign the same to the Court of competent jurisdiction there. Learned Civil Judge (Junior Division), Chandigarh shall ensure that entire record of the case is sent to learned District Judge, Pathankot.

Parties are directed to appear before the Court of learned District Judge, Pathankot on 29.02.2016. Since none appeared on behalf of the respondent, learned Civil Judge (Junior Division), Chandigarh is directed to inform the counsel for the respondent – Vishal Kumar about the date of appearance before the learned District Judge, Pathankot. Parties will be at liberty to make a request to the concerned courts for fixing both the cases on one date. If such a request is made, the Courts shall make an endeavour to fix same date in both the cases.

Disposed of.

February 09, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge