

In the High Court of Punjab and Haryana at Chandigarh

T.A. No. 832 of 2015

Date of Decision: February 12, 2016

Kulwinder Kaur

... Applicant

Versus

Nirbhai Singh

... Respondent

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

Present: Mr. Narinder S. Lucky, Advocate,
for the applicant.

Mr. Vaneet Garg, Advocate,
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 under Section 9 of the Hindu Marriage Act (hereinafter referred to as the “Act”), filed by the respondent titled as “Nirbhai Singh vs. Kulwinder Kaur”, pending in the Court of learned Addl. Civil Judge (Senior Division), Phul to the court of competent jurisdiction at Barnala.

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

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 Addl. Civil Judge (Senior Division), Phul. The applicant has no source of income. Learned

counsel further contends that the applicant is residing at her parental house situated in District Barnala and it is not convenient for her to travel from Barnala to Phul to defend proceedings instituted by the husband. Petition under Section 125 Cr.P.C., filed by the applicant, is pending against the respondent in the District Court, Barnala. 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 Barnala than for the applicant to attend the same in Phool. Therefore, petition under Section 9 of the Act may be transferred to Barnala.

Per contra, learned counsel for the respondent vehemently opposes the contentions raised by learned counsel for the applicant.

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, the circumstances mentioned in the application, pendency of other proceedings between the parties at Barnala and keeping in view the decision of Hon'ble Supreme Court in **Deepti Bhandari (supra)**, this Court is of the view that it would be in the interest of the respondent as well that all proceedings are tried at one place as he will not be required to appear at different places on different dates. Accordingly, petition under Section 9 of the Act filed by the respondent titled "Nirbhai Singh vs. Kulwinder Kaur", pending in the Court of learned Addl. Civil Judge (Senior Division), Phul is withdrawn and ordered to be transferred to learned District Judge, Barnala, who may assign the same to the Court of competent jurisdiction there.

Learned Addl. Civil Judge (Senior Division), Phul shall ensure that entire record of the case is sent to learned District Judge, Barnala.

Parties are directed to appear before the Court of learned District Judge, Barnala on 01.03.2016. Parties will be at liberty to make a request to the concerned courts for fixing both the afore-mentioned cases on one date. If such a request is made, the Courts shall make an endeavour to fix same date in both the aforementioned cases.

Disposed of.

February 12, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge