

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

-.-

TA 1040 of 2017 (O&M)

Date of decision: 18.12.2017

*Yogita*

.....*Applicant*

*Versus*

*Ketann Tewatia*

.....*Respondent*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Mr. Sandeep Vermani, Advocate  
for the applicant

-.-

**Rekha Mittal, J.** (Oral)

The applicant prays for transfer of petition under Section 13 of the Hindu Marriage Act, 1955 (in short, HMA) titled 'Ketan Tewatia vs Yogita' filed by the respondent-husband from the Court of Additional District Judge, Palwal to a Court of competent jurisdiction at Gurugram.

The inconvenience pleaded by the applicant-wife is that she has ten years old daughter to look after. The proceedings under the Protection of Women from Domestic Violence Act, 2005 (in short, 2005 Act) are pending in the Court at Gurugram, contested by the respondent. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court in ***Bhartiben Ravibhai Rav v Ravibhai Govindbhai Rav, 2017 (3) R.C.R. (Civil) 369.***

The physical distance between the two places is approximately 60 kms. The respondent faced criminal trial pertaining to FIR No. 135 dated 28.05.2010 for offence punishable under Sections 323, 406, 506 and 498-A of the Indian Penal Code at Gurugram and has since been acquitted in the case. He has also faced the proceedings under Section 125 of the

Code of Criminal Procedure in which maintenance has been allowed to the applicant, being paid by the respondent, as informed by counsel. In the referred authority, distance between Dungarpur (Rajasthan) to Ahmedabad (Gujarat) was approximately 200 kms. In Dungarpur, criminal complaint under Sections 498-A and 406 IPC, Section 4 of the Dowry Prohibition Act; applications under Section 125 Cr.P.C. and Sections 12 and 23 of the 2005 Act were pending and the husband had been appearing in those cases. In the present case, distance between the two places is approximately 60 kms. One litigation each is pending at Palwal and Gurugram. As such, the applicant cannot draw similarity between the instant case and that of the referred authority. Under the circumstances, it is appropriate that the petition is allowed to proceed at the place where the same is filed. However, the applicant may file an application before the Court below for issuance of appropriate directions in the light of judgment of Hon'ble the Supreme Court of India ***Krishna Veni Nagam vs. Harish Nagam 2017(2) RCR (Civil) 358***. In case such an application is filed, the same shall be disposed of by the Court below in the light of aforesaid judgment and judgment of Hon'ble the Supreme Court ***Santhini v Vijaya Venketesh (Transfer Petition (Civil) 1278 of 2016, decided on 09.10.2017)*** before proceeding further with the matter.

With the aforesaid observations, the petition stands disposed of .

(Rekha Mittal)  
Judge

18.12.2017

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Whether speaking/reasoned: Yes/No  
Whether reportable : Yes/No