

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.482 of 2017

Date of Decision: 25.9.2017

Amanpreet

..Applicant

Vs.

Simranjit Ghai

..Respondent

CORAM: HON'BLE MRS.JUSTICE REKHA MITTAL

Present: Mr.Aayush Gupta, Advocate for the applicant.

Mr.S.K.Arora, Advocate for the respondent.

REKHA MITTAL, J.

Reply by way of affidavit of the respondent filed in the Court,
is taken on record.

The applicant prays for transfer of petition under Section 9 of Hindu Marriage Act, 1955 (hereinafter referred to as `HMA) filed by the respondent-husband from the family Court, Moga to a Court of competent jurisdiction at Ludhiana.

Counsel for the applicant has submitted that two litigations initiated at the behest of the applicant referred to in para 4 of the application are pending in the Court(s) at Ludhiana and respondent-husband has already caused appearance in those cases and contesting the proceedings. It is further submitted that in case the petition filed by the respondent is transferred to a Court of competent jurisdiction at Ludhiana, it would not cause any inconvenience for the respondent-husband. Another submission made by counsel is that the applicant has responsibility of looking after her

minor son Jai Raj, born out of the wedlock on 12.7.2015.

Counsel for the respondent has not disputed factual assertions raised by counsel for the applicant but has opposed the prayer for transfer on the premise that there is no question of inconvenience for the applicant as distance of Moga and Ludhiana is approximately 70 kilometers. Another submission made by counsel is that the proceedings under Section 9 of HMA do not require personal appearance of the parties on each and every date of hearing.

I have heard learned counsel for the parties and perused the paper book.

Be that as it may, it is undisputed position of the case that two litigations initiated at the behest of the applicant under Protection of Women from Domestic Violence Act, 2005 and Section 125 of Cr.P.C. are pending in the Court at Ludhiana. No doubt, the proceedings under Section 9 of HMA do not require personal appearance of the parties on each and every date of hearing but the applicant has the responsibility to look after her minor child aged about 2 years. Transfer of the petition pending at Moga to Ludhiana may not cause any inconvenience for the respondent on the basis of fact that the respondent is contesting the proceedings filed by the applicant at Ludhiana, referred to in para 4 of the application. Under the circumstances, it is in the fitness of things that petition under Section 9 of HMA filed by the respondent is withdrawn from the Court of District Judge, Family Court, Moga and is transferred to the District Judge, Ludhiana. The District Judge, Ludhiana is directed to assign the petition to one of the Courts wherein one of the petitions either under Protection of Women from Domestic Violence Act, 2005 or Section 125 Cr.P.C. is pending. The Court

concerned would fix both the cases on the same date so that there is no inconvenience for the respondent-husband.

With the aforesaid observations, the petition stands disposed of.

25.9.2017
Meenu

(Rekha Mittal)
Judge

Whether speaking/reasoned - Yes/No
Whether Reportable - Yes/No