

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

-.-

TA 876 of 2017 (O&M)

Date of decision: 30.10.2017

Jaswinder Kaur alias Jassi and others

..... *Applicants*

Versus

Gurdeep Singh

..... *Respondent*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Shamsheer Singh Gill, Advocate
for the applicants

-.-

Rekha Mittal, J. (Oral)

The applicants pray for transfer of petition filed under Section 9 of the Hindu Marriage Act, 1955 (in short, 'HMA') titled '*Gurdeep Singh vs. Smt. Jaswinder Kaur alias Jassi and others*' (Annexure P1) from the Court of Additional Civil Judge (Senior Division) Malerkotla to a Court of competent jurisdiction at Ludhiana.

Counsel for the applicants has submitted that parents of applicant No. 1 have also been impleaded as a party in the petition under Section 9 HMA and because of their old age, it is difficult for them to attend the proceedings pending at Malerkotla. Jaswinder Kaur alias Jassi has filed an application under Section 125 of the Code of Criminal Procedure (in short, 'Cr.P.C.') for grant of maintenance which is pending in the Court at Payal, District Ludhiana. The petition under Section 9 HMA can be decided by the same Court which is seized of the proceedings under Section 125 Cr.P.C.

The physical distance between village of the applicants and

Payal is approximately 7 kms. but distance between their village and Malerkotla is approximately 60 kms. The application under Section 125 Cr.P.C. has been filed subsequent to the petition under Section 9 HMA was filed by the respondent-husband. It appears that parents of applicant No. 1 have been unnecessarily impleaded as a party in the petition filed under Section 9 HMA and no prejudice is likely to be caused to them in case they do not defend the proceedings for restitution of conjugal rights. Conversely, they can file an application for deletion of their names from array of the parties. Under the circumstances, it is appropriate that the petition is allowed to proceed at the place where the same is filed. However, applicant No. 1 is at liberty to file an application before the Court below for issuance of appropriate directions in the light of judgments of Hon'ble the Supreme Court of India ***Krishna Veni Nagam vs. Harish Nagam 2017(2) RCR(Civil) 358*** and ***Santhini v Vijaya Venketesh (Transfer Petition (Civil) 1278 of 2016, decided on 09.10.2017)***. In case such an application is filed, the same shall be disposed of by the Court before proceeding further in the matter. Similarly, if an application is filed by applicants No. 2 and 3 for deletion of their names from array of the parties, the same shall be decided by the Court below before calling upon applicants No. 2 and 3 to file reply.

With the aforesaid observations, the petition stands disposed of.

(Rekha Mittal)
Judge

30.10.2017
mohan bimbura

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