

Criminal Misc. No. M- 26627 of 2017 (O&M)

Date of decision : February 16, 2018

Cdr. Anubhav Kumar (Retd.)

.....Petitioner

Versus

Geetanjali Kumar alias Geetu

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Saajan Singla, Advocate
for the petitioner.Ms. Meena Bansal, Advocate
for the respondent.

LISA GILL, J.

The petitioner seeks transfer of case Mnt125/6/2017 dated 23.01.2017 from the Court of learned Judicial Magistrate First Class, Panchkula to the Court of competent jurisdiction at Patiala.

It is submitted that the petitioner is a resident of Patiala. Two daughters of the petitioner and the respondent are in care and custody of the petitioner. One of the daughters is studying in 10+2 and the other in class 10. Petition under Section 13 of Hindu Marriage Act, 1955 ('the Act' – for short) filed by the petitioner was transferred from Patiala to Panchkula on a petition moved by the respondent. The petitioner had given his consent for transfer of the said proceedings to Panchkula as at that time both the children were being looked after by the respondent and she herself was residing at Panchkula. It is submitted that thereafter the daughters were left in the care and custody of the petitioner on 28.08.2016. It is vehemently argued that it is difficult for the petitioner to pursue the matter at Panchkula after leaving the daughters at Patiala. Moreover, the proceedings in the

divorce petition are near culmination whereas the proceedings under Section 125 Cr.P.C. are likely to take some time for final adjudication. Learned counsel for the petitioner submits that the respondent is now residing at Delhi, thus, there is no reason for the proceedings to continue at Panchkula. It is, thus, prayed that this petition be allowed.

Learned counsel for the respondent has opposed this petition while submitting that the petitioner is in fact working from New Delhi. Reference is made to affidavit dated 03.07.2017 executed by the petitioner before the learned Additional Sessions Judge, Panchkula wherein he has admitted the said fact. A photocopy of the same produced in Court today is taken on record subject to just exceptions.

It is noticed that this matter was placed before the Mediation and Conciliation Centre of this Court to explore the possibility of an amicable resolution of the entire dispute between the parties. As per the report of the mediator dated 14.02.2018, a request for extension of time has been addressed. However, both the petitioner and the respondent present in Court, duly identified by their counsel, submit that there is no possibility of an amicable resolution of the dispute, therefore, this matter be not sent back to the Mediation and Conciliation Centre. Accordingly, arguments were addressed by learned counsel for the parties.

Heard, learned counsel for the parties.

It is not in dispute that petition under Section 13 of the Act filed by the petitioner is pending before the learned Additional Sessions Judge, Panchkula and is being pursued by him at the said place. When confronted with affidavit dated 03.07.2017, it is candidly admitted by the petitioner that he is indeed living at Delhi from Monday to Friday in

connection with his work. The petitioner admittedly goes to Patiala only on the weekends. Both his daughters are living with his parents at Patiala. The very foundation on which this petition has been filed has fallen like a house of cards on a clear admission of the petitioner who is present in Court today. A litigant who has not approached this Court with clean hands is not entitled to any indulgence whatsoever.

Keeping in view the facts and circumstances of the case, I do not find any ground to transfer the matter Mnt125/6/2017 dated 23.01.2017 titled as 'Geetanjali Kumar versus Anubhav Kumar' from Panchkula to Patiala.

This petition is, accordingly, dismissed.

February 16, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No