

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

**TA No.37 of 2018 (O&M)
Date of decision:30.08.2018**

Rekha Bansal alias Rekha Gupta

... Petitioner

Vs.

Satish Bansal

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ishan Gupta, Advocate
for the petitioner.

Mr. Shailendra Sharma, Advocate
for the respondent.

AMIT RAWAL J.

C.M.No.18113-CII of 2018

The application is allowed, subject to all just exceptions. The documents, Annexures P-6 to P-9, are taken on record.

TA No.37 of 2018

Prayer in the present application is for transfer of petition under Section 13 of Hindu Marriage Act, 1955 seeking dissolution of marriage filed by respondent against the petitioner in case No.HMA 898 of 2017 titled as “Satish Kumar Bansal Vs. Rekha Bansal” pending in the Court of Additional District Judge, Chandigarh to some other Court of competent jurisdiction at Ludhiana.

Mr. Ishan Gupta, learned counsel appearing on behalf of the petitioner submitted that marriage between the parties was solemnized on 30.08.1999 at Mandi Gobindgarh, District Fatehgarh Sahib which was duly registered at Amloh, District Fatehgarh Sahib. The parties resided at Mandi Gobindgarh and thereafter, shifted to Panchkula. Two sons were born on 02.11.2000 and 26.06.2005 respectively.

The relation between parties had become estranged. The petitioner in the month of June 2010 was turned out from the matrimonial home. Till date, the petitioner had not initiated any litigation against the respondent with a hope that some better sense prevail, but however was flabbergasted to notice the filing of divorce petition in which notice was issued for 6.03.2018. The petition dated 19.07.2018 under Section 125 of Cr. P.C. (Annexure P-8) has been filed. Even the complaint dated 19.05.2018 (Annexure P-6) to the police at Chandigarh was filed for registration of a criminal case against various persons and thus, sought the transfer of aforementioned petition. Though the petitioner is a practising Advocate at District Court, Ludhiana and working as an Associate with a lawyer. She has no sufficient source of income and is residing at the mercy of her parents and not able to maintain herself and minor children. The respondent had flatly refused to maintain the petitioner.

On the other hand, Mr. Shailendra Sharma, learned counsel appearing on behalf of the respondent submitted that petitioner-wife has sufficient professional income. The petition under Section 125 of Cr.P.C has been filed as a counter blast to the petition under Section 13. It is not

necessary that every time convenience of the wife has to be seen. At the time of marriage, divorce petition has been filed on the ground of adultery etc. Divorce petition has been filed by invoking the jurisdiction of the Court at Chandigarh owing to the residence of petitioner and urged this Court for dismissal of the transfer application. The distance between Chandigarh and Ludhiana is 110 kilometers.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Ishan Gupta.

The facts with regard to marriage, birth of the children and place of residence are matter of record. It is strange that parties to the lis with two children, who married in the year 1999 are at loggerhead. No doubt, the petitioner is working as a lawyer and has also to look after two children. One is going to attain the majority within a period of two months and another is minor. Their education expenses are also high as the husband has shied away in paying their education fee and tuition fee.

Be that as it may, it is the fit case where the divorce petition requires to be transferred pending in the Court of Additional District Judge , Chandigarh to the Court of competent jurisdiction at Ludhiana as indicated above. The divorce petition is ordered to be transferred to the competent Court at Ludhiana.

The transfer application is allowed.

The parties are directed to appear before the District Judge, Ludhiana on 26.09.2018. It is the prerogative of the District Judge, Ludhiana to assign the case to the concerned Court.

(AMIT RAWAL)
JUDGE

August 30, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No