

TA No.78 of 2018

{1}

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

TA No.78 of 2018

Date of decision:30.08.2018

Suman Saini

... Petitioner

Vs.

Ashok Kumar Saini

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Paul S. Saini, Advocate
for the petitioner.

Mr. Sanjeev Sharma, Advocate (Legal Aid Counsel)
for the respondent.

AMIT RAWAL J.

Prayer in the present application is for transfer of the petition bearing No.DMC/780/2017 titled as “Ashok Saini Vs. Suman Saini” filed by the respondent under Section 9 of Hindu Marriage Act, 1955 (for short “1955 Act”) before the District Judge, Rohtak to the Court of competent jurisdiction at Hisar.

Mr. Paul S.Saini, learned counsel for the petitioner submitted that marriage between the parties was solemnized on 31.01.2005 and on 05.11.2005, a female child was born and another male child on 22.10.2010. The petitioner is bearing all their expenses in Panchkula since May, 2017. The parties had resided together at Rohtak. Reference has been made to copy of the Medico Legal Report dated 06.07.2017 (Annexure P-1). The petitioner has filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter called as “DV Act

Proceedings”) on 24.07.2017 before the Judicial Magistrate Ist Class, Hisar, wherein, respondent has put in appearance which is evident from the order dated 12.12.2017 (Annexure P-2). The husband as a counter blast has filed a petition bearing No.DMC/681/2017 under Section 13 of Hindu Marriage Act, 1955 before the Principal District Judge, Family Court, Hisar and the respondent has also put in appearance which fact is evident from the order dated 12.01.2018 [Annexure P-3(collectively)]. However, the respondent has filed the petition dated 31.10.2017 under Section 9 of 1955 Act at Rohtak. It is in these circumstance, transfer application has been filed.

Mr. Sanjeev Sharma, learned counsel appearing on behalf of the respondent submitted that no ground is made out for transfer of the petition but could not dispute the filing of divorce petition and the petition by wife under DV Act Proceedings at Hisar.

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. Saini.

Two petitions as noticed above are already pending at Hisar and husband had already put in appearance which fact is evident from the orders dated 12.12.2017 passed by the Judicial Magistrate under the DV Act Proceedings and 12.01.2018 by the Family Court at Hisar. The same read as under:-

12.12.2017

“Suman Vs. Ashok

Present : Sh. G.C.Verma, Advocate for the petitioner.

Sh. Mohit Arora, Advocate for respondent No.1.

File put be before the undersigned in compliance of the order No.17667-81 dated 22.12.2009 passed by learned District & Sessions Judge, Hisar as Mohd. Sageer, learned JMJC-cum-CJ (JD), Hisar is on training at Bhopal.

Power of attorney on behalf of respondent no.1 filed. Notice issued to respondents No.2 and 3 received back unserved. Now, fresh notice to respondents No.2 and 3 be issued through registered A.D for 16.2.2018. Dasti notice be given, if so desired.

(Puneet Limba)

*Judicial Magistrate Ist Class,
Hisar*

Dated 12.12.2017”

12.01.2018

“Suman Saini Vs. Ashok Saini

CNR NO.HRHS030056202017

CIS NO.DMC/681/2017

*Present : Sh. Gopi Chand Verma, Advocate for the petitioner.
Sh. Mohit Arora, Advocate for respondent.*

Report from Mediation Centre, Hisar received that Mediation proceedings could not commence as both the parties not appeared.

Parties appeared. Efforts made for reconciliation but failed. Per request made by learned counsel for the respondent, which is not opposed, proceedings are now

adjourned to 28.03.2018 for furnishing written statement on behalf of respondent.

Date of order:12.01.2018 (Alka Malik)
Principal District Judge, Family Court Hisar
UID No.HR0089 “

In such circumstances, I deem it appropriate to transfer the petition bearing No.DMC/780/2017 titled as “Ashok Saini Vs. Suman Saini” filed by the respondent under Section 9 of 1955 Act, from Rohtak to Hisar avoiding inconvenience to the wife.

Resultantly, the transfer application is allowed.

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

(AMIT RAWAL)
JUDGE

August 30, 2018
savita

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