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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CM No.22840-CII of 2019 in/and
Civil Revision No.6613 of 2019 (O&M)
Date of Decision: 26.11.2019

Shilpa KhannaPetitioner

Vs

Amit KhannaRespondent

2. Civil Revision No.6630 of 2019 (O&M)

Shilpa KhannaPetitioner

Vs

Amit KhannaRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ajay Kumar Kansal, Advocate
for the petitioner.

Mr. Sourabh Goel, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

CM No.22840-CII of 2019 in CR No.6613 of 2019

Prayer made in this application is for preponement of
date of hearing of the main case, which is fixed for 02.12.2019

This application was ordered to be heard along with CR
No.6630 of 2019 on 18.11.2019.

After hearing learned counsel for the parties, the
application is allowed. Date of hearing in the main case is
preponed for today.

With the concurrence of learned counsel for the parties,

the main case is taken up for final disposal along with CR No.6630 of 2019.

Main case(s)

[1]. Vide this common order, CR Nos.6613 and 6630 of 2019 (O&M) are being decided. Since both the revision petitions involve similar controversy, therefore, facts are being culled out from CR No.6613 of 2019 (O&M).

[2]. Notice of motion was issued in CR No.6613 of 2019 on the arguments raised by learned counsel for the petitioner that circumstances and reasonable apprehension in the mind of the petitioner have compelled the petitioner to file an application for transfer of case from the Court of Principal District Judge, Family Court, Gurugram to any other Court of competent jurisdiction in Gurugram. The petitioner takes the Court in her high esteem and does not impute anything about mala fide intentions, however the circumstances have made the petitioner apprehensive.

[3]. It was contended by learned counsel for the petitioner that vide order dated 06.03.2017, the Court granted last opportunity to the respondent herein to conclude his entire evidence on 04.08.2017. The said order was not complied with and the respondent was granted numerous opportunities thereafter to conclude his evidence and he ultimately closed his

evidence only on 23.01.2019. Thereafter the case was adjourned for evidence of the petitioner for 28.01.2019. Schedule of examination of daughters of the petitioner was overlapping with the dates in the case, therefore, the petitioner sought listing of the case after 20.03.2019 i.e. after the examinations of her daughters. The prayer was rejected by the Principal District Judge, Family Court, Gurugram vide order dated 14.02.2019 on the ground that the case was under action plan.

[4]. Against the aforesaid order, CR No.1445 of 2019 was filed by the petitioner in the High Court in which notice of motion was issued for 29.03.2019. In the meanwhile, the trial Court was directed to fix any date for evidence of the petitioner after 20.03.2019. By that time, one more petition arising out of HMA case No.228 of 2016 was also filed i.e. CR No.1100 of 2019 on similar grounds between the parties. The aforesaid revision petition was ordered to be heard along with CR No.1100 of 2019. Since the purpose of seeking adjournment beyond the date of examinations of the minor daughters was served, therefore, the petitioner withdrew both the aforesaid revision petitions vide order dated 29.03.2019. Thereafter Principal District Judge, Family Court, Gurugram adjourned the case at the instance of respondent on two occasions i.e. 27.03.2019

and 20.04.2019, irrespective of the fact that the case was under action plan. It was further contended by the learned counsel that all these events made the petitioner reasonably apprehensive in the light of rejection of her prayers for adjournments due to overlapping schedule of examinations of her children.

[5]. In pursuance of notice of motion, learned counsel appearing on behalf of the respondent sought to argue the case on merits by referring to the interlocutory orders passed by the Family Court from time to time.

[6]. Perusal of interlocutory orders on record may give rise to some arguable points on both the sides, but the fact remains that it is an onerous duty of the Court to do substantial justice between the parties and that justice should appear to have been done. This Court is not in a position to ascertain the truth in the submissions of the parties. At this stage without meaning anything on merits of the case, it would be appropriate to transfer the proceedings in both the cases to some other Court having competent jurisdiction in Gurugram itself.

[7]. Learned counsel for the respondent has no objection to the transfer of case from the Court of Principal District Judge, Family Court, Gurugram to any other Court of competent jurisdiction in Gurugram, provided the proceedings of the cases are decided in a time bound manner i.e. within a period of three

months and the cross-examination of the petitioner is also conducted by the Presiding Officer.

[8]. The Court is also informed that 2nd and 5th December 2019 are the date fixed in divorce petition for cross-examination of the petitioner.

[9]. In view of aforesaid facts and circumstances of the cases, both the cases are ordered to be transferred from the Court of Principal District Judge, Family Court, Gurugram to some other Court of competent jurisdiction in Gurugram. Learned District & Sessions Judge, Gurugram would undertake the exercise in the aforesaid context. The Transferee Court would be at liberty to visualize the available dates on its roster and re-schedule the same according to its convenience. The proceedings of the cases be decided at the earliest preferably within a period of three months from the date of receipt of copy of this order. Any practical difficulty be brought to the notice of this Court while seeking extension of time in accordance with law.

[10]. With these aforesaid direction, both the revision petitions are disposed of. Both the parties are directed to appear before the transferee Court on 02.12.2019.

November 26, 2019

(RAJ MOHAN SINGH)
JUDGE

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No