

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

TA No. 1038 of 2017 (O&M)

Date of decision : 1.5.2019

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Gurjeet Kaur Sekhon through
her Special Power of Attorney,
Mukhtiar Singh

.....Applicant

vs.

Amandeep Singh Sekhon

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. K.S. Sidhu, Advocate for the applicant.

Mr. A.S. Rai, Advocate for the respondent.

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H. S. Madaan, J. (Oral)

By way of moving the present application, applicant –
Gurjeet Kaur Sekhon, aged about 35 years, estranged wife of
Amandeep Singh Sekhon, residing in Canada, seeks transfer of
divorce petition, filed by her husband, who is respondent in the
present application, against her, having title 'Amandeep Singh
Sekhon vs. Gurjeet Kaur' pending in the Court of District Judge,
(Family Court), Faridkot, to a Court of competent jurisdiction at
Bathinda. The application has been filed by applicant Gurjeet Kaur
Sekhon through her Special Power of Attorney Mukhtiar Singh.

According to the applicant she is a citizen of Canada and is residing there alongwith her daughter. She has filed the present application through her maternal uncle, whom she has appointed as her Special Power of Attorney. According to the applicant, the respondent is also a Canadian citizen and proceedings for divorce are already pending between them in Canada. Thereafter, the respondent came to India and filed a divorce petition against her here, which is nothing but an abuse of process of law. Her maternal uncle, who is her attorney is aged about 70 years. He is residing at a place which is at a distance of 80 kms from Faridkot. It is difficult for him to pursue the litigation at Faridkot and that applicant would herself have to come to India number of times during pendency of the case and she would be staying with her maternal uncle near Bathinda; that father of respondent is a practicing Advocate at Faridkot, who has served as District Attorney, after retirement and he exercises considerable influence at Faridkot, which can be gauged from the fact that applicant was not able to engage a lawyer at Faridkot and she had to engage a lawyer from Bathinda; that the applicant has a genuine apprehension of threat to her life and that of her attorney. Therefore, the divorce petition in question be transferred to the Court having jurisdiction at Bathinda.

Notice of the application was given to the respondent, who has put in appearance through counsel and is opposing the application vehemently, praying for its dismissal.

I have heard learned counsel for the parties, besides going through the record and I find that there is no merit in the application.

The first and foremost thing to be considered is that the applicant herself is residing in Canada and she is seeking transfer of divorce petition mainly for the reason that the attorney appointed by her is an aged person and it is difficult for him to go from his native place to Faridkot, to attend the dates of hearing there. This grouse is highly unconvincing. Things might have been different, if the applicant was residing in India and had sought transfer of the petition to a Court situated at or near the place of her residence. Of course, the courts are sympathetic to married women locked in litigation with their husband. While considering the transfer of matrimonial litigation, convenience of married women is kept in mind but that cannot be substituted by convenience of the attorneys. Merely because it is convenient for the attorney of the applicant to appear in Court at Bathinda, the divorce petition cannot possibly be transferred to a Court at Bathinda.

The second contention that a matrimonial litigation is already pending between the parties in Canada and respondent has come to India and filed another divorce petition against the applicant, in Court at Faridkot, this Court is not to deal with such type of matter. The applicant may raise all these pleas before the trial Court, which may then take those into consideration in accordance with law.

As regards, the submission that the applicant shall have to come to India and stay with her maternal uncle, at village Ramgarh Bhundar, Tehsil Maur Mandi, District Bathinda and it shall be difficult for her to go to Faridkot, again this submission is not convincing. The applicant may stay at a place from where she can

conveniently go to Faridkot, to attend the dates of hearing in Court there.

One more argument put forward by learned counsel for the applicant was that family of respondent exercise influence at Faridkot since father of respondent has retired as a District Attorney and is a practicing Advocate there. I do not find any merit in this contention also. No body, may be a retired District Attorney or a practicing Advocate, can interfere in judicial proceedings, howsoever influential or well connected, he or she may be. The apprehensions of the applicant in that regard are misconceived.

With regard to the possible threat to her life and that of her attorney, they may take up the matter with the local police in that regard.

Under the circumstances, I do not see any reason to accept the application. The same is dismissed accordingly.

1.5.2019
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(H.S. Madaan)
Judge

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