

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

TA-565-2018 (O&M)

Date of decision: 30.05.2019

Seema

...Applicant

Versus

Jasbir Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. M.S. Uppal, Advocate for the applicant.

H.S. MADAAN, J. (Oral)

This application for transfer of petition under Section 25 of the Guardians & Wards Act, 1890 titled 'Jasbir Singh Vs. Seema' pending in the Court of Civil Judge (Sr. Divn.) Amritsar to the Court of competent jurisdiction at Patiala, has been filed by applicant Seema, aged about 29 years, estranged wife of respondent Jasbir Singh, presently residing with her parents at Patiala, on account of matrimonial discord between the spouses.

According to the applicant, the marriage solemnized between the parties on 21.09.2010 ran into rough weather, though the couple was blessed with a daughter, namely Baby Navjot Kaur on 08.08.2011. On account of demand of dowry by the respondent and his family members from the applicant, she had to leave the matrimonial home and start residing with her parents along with daughter of the parties. She had filed a divorce petition against the respondent which was allowed *ex parte* on 01.09.2016. The respondent has filed the petition in question against her seeking custody of minor daughter of the parties which has been so done

with bad intention just to harass and cause trouble to the applicant. In terms of Section 9 of the Guardians & Wards Act, such petition can be filed in District Court having jurisdiction over the place where the minor ordinarily resides or has got property. In this case, the petition should have been filed in District Courts at Patiala but the respondent wrongly filed it in Court at Amritsar. According to the applicant, she being a young woman, having no source of income, it is difficult for her to travel from her parental place to Amritsar to attend the dates of hearing in the Court there, covering a distance of about 250 kms on one side. Therefore, the present application be accepted.

Notice of the application was given to the respondent, who had put in appearance through counsel who subsequently stopped appearing.

I have heard learned counsel for the applicant besides going through the record.

The Apex Court in various judgments has observed that in matrimonial disputes between the spouses convenience of wife should be looked into. In that regard a reference can be made to authority **Sumita Singh** Versus **Kumar Sanjay and another**, 2002 AIR(SC) 396 by a Division Bench of Hon'ble Supreme Court.

In **Bhartiben Ravibhai Ray** Versus **Ravibhai Govindbhai Ray**, 2017(3) RCR(Civil) 369, the Apex Court had allowed application for transfer of the divorce petition to a place where the wife was residing considering various factors including the distance between the place where the wife was residing and the place of sitting of the Court where divorce petition had been instituted and the fact that the wife had filed two cases

against her husband in the Court at the place of her residence wherein the respondent had already put in appearance.

In Apurva Versus Navtej Singh, 2017(2) Law Herald 966 by a Co-ordinate Bench of this Court, it was observed that wherever the Courts are called upon to consider the plea of transfer in matrimonial disputes, the Courts have to take into consideration various factors like economic soundness of either of the parties, the social strata of the spouses to which they belong and behavioural pattern, standard of life antecedents of marriage. Generally it is the wife's convenience, which must be looked at by the Courts while deciding the transfer application.

Keeping in view the contentions in the application and submissions made by learned counsel for the applicant, in which I find merit, in absence of any strong circumstance to the contrary, it would be proper and appropriate, if the application is accepted. The same is accordingly allowed. The petition in question is ordered to be withdrawn from the Court of Civil Judge (Sr. Divn.) Amritsar and transferred to Family Court at Patiala for disposal in accordance with law.

The parties are directed to appear in the transferee Court on 25.07.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

30.05.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No