IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

TA-842-2018 (O&M)
Date of decision: 09.04.2019

Nisha

...Applicant

Versus

Nitin Raj

...Respondent

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

Present: Mr. Pardeep Sihmar, Advocate for the applicant.

Mr. PPS Bajwa, Advocate for the respondent.

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H.S. MADAAN, J. (Oral)

CM-6251-CII-2019

This is an application for placing on record the reply along with documents on behalf of the respondent.

Heard. Allowed, subject to all just exceptions. Let the reply along with documents be made part of the record.

Main Case

This application for transfer of petition under Section 9 of the Hindu Marriage Act titled 'Nitin Raj Vs. Nisha' pending in the Court of Civil Judge (Sr. Divn.) Rajpura to the Court of competent jurisdiction at Chandigarh, has been filed by applicant Nisha, aged about 31 years, estranged wife of respondent Nitin Raj, presently residing with her parents at Chandigarh.

According to the applicant, the marriage solemnized between

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the parties on 29.04.2017 did not work, though, the couple was blessed with a male child born on 08.03.2018; that the respondent and his family members created such a situation that the applicant had to leave the matrimonial home and start residing with her old aged parents at Chandigarh. She is taking care of minor son of the parties, who was aged about 05 months at the time of filing of application; that just to harass the applicant, the respondent has filed the petition in question in Court at Rajpura. The respondent himself is working as an Assistant Professor in the Department of Community Education and Disability Studies under Punjab University, Chandigarh. The applicant is working as clerk in that very university posted at Chandigarh. According to the applicant, it is difficult for her to travel from Chandigarh to Rajpura, to attend the dates of hearing in the Court there. Therefore, the present application be accepted.

Notice of the application was given to the respondent, who has put in appearance through counsel, filing written reply, contesting the application and praying for its dismissal.

I have heard learned counsel for the parties 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.

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In **Bhartiben Ravibhai Rav** Versus **Ravibhai Govindbhai Rav**, 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.) Rajpura and transferred to the Court of learned District Judge, Chandigarh for disposal in accordance with law. Learned District Judge, Chandigarh may retain the petition on his board or assign it to any other Court of competent jurisdiction.

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The parties through their counsel are directed to appear in the transferee Court on 07.05.2019. Copies of orders be sent to both the Courts for information and necessary compliance.

09.04.2019 **(H.S. MADAAN)**
sumit.k **JUDGE**

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

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