

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

T.A. No. 900 of 2018

DATE OF DECISION :- May 06, 2019

Hem Lata

...Applicant

Versus

Dheeraj Kumar

...Respondent

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

Present:- Mr. R.K. Garg, Advocate for the applicant.

Applicant Hem Lata, aged about 36 years, wife of Dheeraj Kumar-respondent, presently residing with her father at Nabha, District Patiala on account of matrimonial discord between the spouses, by way of filing the instant application seeks transfer of petition under Section 13 of the Hindu Marriage Act filed by her husband Dheeraj Kumar against her having title 'Dheeraj Kumar Vs. Hem Lata' pending in the Court of Additional District Judge, Sirsa to the Court of competent jurisdiction at Patiala.

According to the applicant, she was married with the respondent on 24.6.2012. Thereafter they started residing together. The respondent remained idle and started torturing the applicant raising demand of money from her old aged mother to run the household expenses. The applicant gave birth to a male child namely Kushal Joshi from the loins of

the respondent on 16.4.2013. Due to cruel treatment meted out to the applicant by the respondent and his family members the applicant had to leave the matrimonial home and start residing with her father at Nabha. She is taking care of minor son of the parties who is severally handicapped. It is difficult for her to go from Nabha to Sirsa to attend the dates of hearing in the Court there, covering a considerable distance. She does not have any source of income, therefore, the application be accepted.

Notice of the application was given to the respondent, who as per office report has been served but has not put in appearance. He is proceeded against ex-parte.

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 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 Additional District Judge, Sirsa and transferred to Family Court at Patiala for disposal in accordance with law.

The parties through their counsel are directed to appear in the transferee Court on 30.5.2019. Copies of orders be sent to the Court of Additional District Judge, Sirsa as well as to the Family Court at Patiala for information and necessary compliance.

(H.S. MADAN)
JUDGE

May 06, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No