

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

**T.A NO. 19 OF 2020
DATE OF DECISION : 14.02.2020**

Anupam Bali

...Applicant

versus

Brigadier (Retd.) Parveen Paul

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Pankaj Yadav, Advocate,
for the applicant.

Mr. R. K. Kartikeya, Advocate,
for the respondent.

ARUN MONGA, J. (ORAL)

The present petition has been filed by the applicant-wife seeking transfer of a petition filed by her husband under Section 13 of the Hindu Marriage Act, 1955, (hereinafter referred to as "HMA") bearing HMA No.273 of 2014 titled as "Brig. (Retd.) Parveen Paul v. Anupam" from the Court of Shri Baljinder Singh, Judge, Family Court, Pathankot to the Court of Shri Avtaar Singh, Additional District Judge, Pathankot.

2. Learned counsel for the applicant submits that applicant moved an application seeking implementation of order dated 30.09.2019, but no action was taken. Vide later order dated 28.11.2019, her prayer for maintenance was rejected by the Court which seems to be prejudiced. In the premise, applicant also complained against the Presiding Officer of the Court to this Court through the learned District Judge, Pathankot.

3. Learned counsel for the applicant further submits that one petition under Section 12 of Protection of Women from Domestic

Violence Act, 2005 and criminal proceeding arising out of FIR No.26 dated 25.03.2014 under Section 498-A IPC are already pending before the Court of Shri Avtaar Singh, Additional District & Sessions Judge at Pathankot, therefore, petition under Section 13 of HMA be also transferred to the same very Court.

4. On the other hand, learned counsel for the respondent has opposed the transfer of petition on the ground that the allegations levelled in the application are vague. There is only one Court at Pathankot who has been assigned the work of Family Court, therefore, the petition cannot be transferred. He further submits that it is only an attempt of the applicant to take favourable decision, nothing else and also a tactic to pressurize the Presiding Officer of the Court.

5. Learned counsel for the applicant has placed reliance on the judgment of Apex Court in case titled as "*Kulwinder Kaur v. Kandi Friends Education Trust*" 2008 (3) SCC 659, wherein it is held that if the Court feels that the plaintiff or the defendant is not likely to have a "fair trial" in the Court from which he seeks transfer of the case, it is not only the power but the duty of the Court to transfer the case.

6. I have heard learned counsel for the parties and have gone through the records of the case.

7. Without going into the allegations and counter-allegations and without expressing any opinion on the merits thereof, this Court is of the view that since all the aforesaid cases pending between the parties herein are aftermath of matrimonial discord, it would, therefore, be proper, appropriate and in the interest of justice, if the same are tried and decided by one Court to avoid any conflicting views.

8. In the premise, petition in question pending before the Court of Shri Baljinder Singh, Judge, Family Court, Pathankot is ordered to be withdrawn from that Court and is transferred to the Court of District Judge, Pathankot, for its further disposal in accordance with law by ensuring that all cases as aforesaid, are either tried by same Court or by his Court or any other competent Court which he may deem fit.

9. Petition stands allowed in above terms.

(ARUN MONGA)
JUDGE

FEBRUARY 14, 2020
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1.	Whether speaking/reasoned :	Yes/No
2.	Whether reportable :	Yes/No