

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

207

TA No.463 of 2020
DATE OF DECISION : 18th JANUARY, 2021

Shayana Atwal

.... Petitioner

Versus

Sameer Nayyar

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court
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Present : Mr. Gursharan Singh, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner (wife) under Section 24 of the CPC for transferring the petition under Section 9 of Hindu Marriage Act, 1955 for Restitution of Conjugal Rights, filed by respondent (husband), i.e. case No.HMA/122/2020 titled as Sameer Nayyar Versus Shayana Atwal (wrongly mentioned as 'Shayan Atwal' in headnote of the petition), pending in the court of District Judge (Family Court), Pathankot (Annexure P-1) to the court of competent jurisdiction at Amritsar.

It is submitted by the counsel for the petitioner that the marriage of the petitioner with the respondent was solemnized on 26.01.2018. However, the matrimonial dispute having arisen, the petitioner was shunted out of her matrimonial home by respondent. Thereafter, the petitioner has been residing at Amritsar with her parents.

The petitioner is not having any means of livelihood. Therefore, the petitioner does not have the requisite funds to repeatedly attend the proceedings at Pathankot. Moreover, there is nobody in the family to accompany the petitioner to Pathankot. The counsel has also submitted that two more cases, instituted at the instance of the petitioner and against the respondent, are already pending at Amritsar. Therefore, it would be in the interest of justice if the petition No.HMA/122/2020 titled as Sameer Nayyar Versus Shayana Atwal, pending at Pathankot; is ordered to be transferred to Amritsar.

Notice of motion was issued. The service has been effected. However, there is no representation on behalf of the respondent despite service. Hence, this court is deprived of any benefit of assistance from the other side.

In the matter of place of adjudication of the matrimonial disputes, it is the convenience of the wife which has to be given precedence over the convenience of the husband, unless there are other prohibiting factors and circumstances to the contrary. In the present case, there is nothing special against the petitioner/wife which should dissuade the court from transferring the petition No.HMA/122/2020 from Pathankot to Amritsar. Moreover, as submitted by the counsel for the petitioner/wife, two more cases are already pending before the Courts at Amritsar. In any case, the respondent/husband would be required to attend the courts at Amritsar in two more cases. Hence, it is clear that if the respondent/husband can attend the Court at Amritsar in two cases then he would not have any extra inconvenience if he is made to attend the proceedings in third case, as well, at Amritsar.

In view of the above, the present petition is allowed.

The petition No.HMA/122/2020 titled as Sameer Nayyar Versus Shayana Atwal, is ordered to be transferred from the Court at Pathankot to the competent Court of jurisdiction at Amritsar. The District and Sessions Judge, Pathankot is directed to transfer the record of the case to the District and Sessions Judge, Amritsar. The District and Sessions Judge, Amritsar is directed to assign the case to the competent Court under his jurisdiction; after receipt of the record of the same.

18TH JANUARY, 2021
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>