

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

-:-

TA No.895 of 2021(O&M)

Date of Decision: 12.11.2021

Harminder Kaur

...Petitioner

VERSUS

Jai Kishan

...Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Akhilesh Vyas, Advocate, for the petitioner.

Ms. Ishita Jain, Advocate, for
Mr. Namit Khurana, Advocate, for the respondent.

ALKA SARIN, J. (Oral)

The present petition under Section 24 of the Code of Civil Procedure, 1908 has been filed by the petitioner-wife seeking transfer of the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955 (hereinafter referred to as the 'HM Act') for restitution of conjugal rights bearing No.HMA/376/2021 titled as "*Jai Kishan Vs. Harminder Kaur*" pending in the Court of Principal Judge, Family Court Yamuna Nagar at Jagadhri to the Court of competent jurisdiction at Amritsar.

Learned counsel for the petitioner would contend that presently the petitioner is residing at NTUC Health 50, (Jurong West), Street-93, 648967, Singapore and the case is being contested on her behalf by her mother as Special Power of Attorney holder. Learned counsel for the petitioner further contends that a female child born out of the wedlock is being looked after by the petitioner's mother and it would be difficult for the petitioner's mother to travel a distance of about 330 kilometers one way in

order to attend the proceedings before the Family Court, Yamuna Nagar at Jagadhri. It is further the contention of learned counsel for the petitioner that a petition filed by the petitioner under Section 13 of the HM Act is pending at Amritsar.

Learned counsel for the respondent has contended that the petition under Section 13 of the HM Act filed by the petitioner-wife at Amritsar is not maintainable and hence the petition under Section 9 of the HM Act ought not be transferred.

I have heard learned counsel for the parties.

In the present case the marriage of the parties was solemnized on 19.01.2011 at Ambala. There is one female child born out of the wedlock on 04.06.2012. The petitioner has admittedly filed a case under Section 13 of the HM Act at Amritsar in which the respondent has already put in appearance. It is also admitted that the distance between Jagadhri and Amritsar is about 330 kms one way. The argument raised by the learned counsel for the respondent that the petition under Section 13 of the HM Act itself is not maintainable at Amritsar is not a question which is to be gone into in the present transfer petition.

In view of the above, I deem it appropriate to allow the present petition and to transfer the petition filed by the respondent-husband under Section 9 of the HM Act for restitution of conjugal rights bearing No.HMA/376/2021 titled as "*Jai Kishan Vs. Harminder Kaur*" pending in the Court of Principal Judge, Family Court, Yamuna Nagar at Jagadhri to the Court of competent jurisdiction at Amritsar.

The records of the case shall be sent by the concerned Court to the Court of the learned District Judge, Amritsar and the parties shall appear there on **05.01.2022** at 10.00 a.m.

The present petition is disposed off in the above terms.

November 12, 2021
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO