

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-91-2021 (O&M)
Date of decision: 13.07.2022

Rajvinder Kaur

....Petitioner

Vs.

Mukesh Kumar Kakkar

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Chanakya Batta, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 25 of the Guardian and Ward Act, seeking custody of the minor child, namely Nitika, aged about 07 years, pending in the Court of Principal Judge, Family Court, Ambala to the competent Court of jurisdiction at SAS Nagar (Mohali).

Learned counsel for the petitioner has argued that minor daughter is living in care and custody of the petitioner at Baltana, Zirakpur, District SAS Nagar (Mohali), therefore, the Civil Court at Ambala has no jurisdiction to try the case. It is further submitted that on account of a

petition filed by the respondent-husband, the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 60 kms between Baltana, Zirakpur, District SAS Nagar (Mohali) and Ambala.

Learned counsel has relied upon the judgments **Sumita Singh Vs. Kumar Sanjay, 2002 SC 396** and **Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi, 2005(12) SCC 237**, wherein the Hon'ble Supreme Court observed that *while deciding the transfer application, the Courts are required to give more weightage and consideration to the convenience of the female litigants and transfer of legal proceedings from one Court to another should ordinarily be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.*"

As per office report, the respondent is served, however, there is no representation on his behalf.

It is well settled that while considering the transfer of a matrimonial dispute/case at the instance of the wife, the Court is to consider family condition of the wife, custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important, convenience of the wife i.e. she cannot travel alone without assistance of a male member of her family, connectivity of the place to and fro from her place of residence as well as bearing of the litigation charges and travelling expenses.

After hearing the counsel for the petitioner, considering the fact

that the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the judgments in **Sumita Singh's** case (supra) and **Rajani Kishor Pardeshi's** case (supra) passed by the Hon'ble Supreme Court, this Court deem it appropriate to allow the present petition, subject to the following conditions:-

- 1. The petition filed under Section 25 of the Hindu Marriage Act, pending before the Principal Judge, Family Court, Ambala will be transferred to the competent Court of jurisdiction at SAS Nagar (Mohali).*
- 2. The District Judge, SAS Nagar (Mohali), will assign the said petition to the competent Court of jurisdiction.*

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

13.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No