

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

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TA No.124 of 2022(O&M)

Date of decision:14.12.2022

Bindu

...Petitioner(s)

v

Sunder Singh

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ishan Gupta, Advocate for the petitioner.

Mr. Abishai Alfred George, Advocate for the respondent.

NIDHI GUPTA, J.(ORAL)

1. Prayer in this petition filed by petitioner wife is for transfer of the petition bearing No.HMA-1002 of 2021 filed by the respondent-husband under Section 13 of the Hindu Marriage Act,1955, titled "Sunder Singh vs. Bindu" pending in the Court of Addl. District Judge, Chandigarh, to a court of competent jurisdiction at Sangrur.
2. Learned counsel for the petitioner, inter alia, submits that:
 - i) that the marriage between the parties was solemnized on 22.11.2011 according to Hindu rites and rituals.
 - ii) that two children were born out of this wedlock.
 - iii) that the petitioner along with her son is living with her aged parents at Sangrur.
 - iv) that daughter of the parties is with the respondent.
 - v) that the petitioner has no source of income.
 - vi) that the distance between her place of residence and place of proceedings is 140 kms. (one side).
 - vii) that the petitioner has also filed petition under Section 125 Cr.P.C. which is pending at Sangrur.
3. Learned counsel for the respondent opposed the present petition and states that unlike the petitioner, the respondent is working in a Gym as Instructor as he has to support his daughter who is residing with

him, as also his aged widowed mother who has undergone a hip surgery, as also a breast lump operation and is suffering from other old age ailments also. It is further submitted that in order to provide them all the daily amenities, he has to work hard and regularly and cannot travel. All emotional support is provided only by him. Moreover, the respondent apprehends threat to his life in Sangrur as the petitioner and her family members are influential persons. It is further submitted that in this situation, it will be more inconvenient and problematic for him to travel to Sangrur, whereas, as the petitioner is not working and has no responsibility, therefore no inconvenience will be caused to her.

4. I have heard learned counsel for the parties.

5. I find merit in the submissions advanced on behalf of the respondent. This Court is well aware of the preponderance of law in cases of transfer emanating from matrimonial disputes is in favour of the wife. However, a perusal of the record in particular Annexure R 3, which is the salary slip of the respondent, reveals that the respondent is earning only Rs. 7500/- per month. Admittedly, he has two dependents, his old mother and minor daughter, for whose welfare he is solely responsible. He has to work not only to make ends meet, but also has to provide emotional support to his 9 year old daughter, who is suffering from a leg deformity i.e. she has '*gap of 3 inch at ankle joint. She needs help doing day to day activities.*' This is evident from the medical report of the minor daughter appended as Annexure R 4. Thus, the respondent has the responsibility of looking after the daily needs as well as provide all support to his daughter and aged, widowed, and ailing mother who are in his care and custody. Clearly, the comparative hardship of the respondent is more than that of the petitioner in

6. Moreover, in other similar cases like this present one the Hon'ble Supreme Court, as well as this Court have refused relief to the wife. One such case which may be referred to is: **(2006) 9 SCC 197 'Anindita Das Vs. Srijit Das'** wherein Hon'ble Supreme Court under similar circumstances dismissed the wife's application seeking transfer of petition filed by the husband. Reference in this regard may also be made to two cases of this Court where, in similar circumstances this Court had dismissed transfer applications filed on behalf of the wife. These are: **TA no. 126 of 2018 Smt. Akhwinder Kaur Vs. Sh. Gurpreet Singh;** and **TA No. 299 of 2019 Nisha alias Manisha vs. Amarveer Yadav.**

7. Accordingly, in view of the facts and circumstances and law as noticed above, I find no merit in this petition and the same is hereby dismissed. Pending applications if any stand disposed of.

14.12.2022

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)

Judge