

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

**TA No.249 of 2022 (O&M)
Date of decision: 13.07.2022**

Pardeep Kaur

....Petitioner

Versus

Baljit Kaur and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. T.S. Attariwala, Advocate
for the petitioner.

Mr. Arun Sharma, Advocate
for respondents No.1 and 2.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of a Civil Suit for permanent injunction filed by the respondents bearing case No.CS/253/2021 titled as 'Baljit Kaur and another Vs. Pardeep Kaur and others' which pending in the Court of learned Civil Judge, Senior Division, Jalandhar to a Court of competent jurisdiction at Moga.

Vide order dated 14.03.2022, the following order was passed:-

“Learned counsel inter alia contends that the applicant had been residing with her parents at Moga and living at their mercy. It would, therefore, be very difficult for her to travel alone from Moga to Jalandhar which is almost 85 kms. away, on each and every date of hearing. Learned counsel submits that the case at Jalandhar is at the initial stage. It has also been submitted that the following litigations are already pending between the parties at Moga, which were instituted prior in time to the

aforementioned petition under Sections:-

i) 12, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005.

ii) COMA/101/2019.

Notice of motion for 13.07.2022.”

Counsel for the petitioner has argued that the respondents No.1 and 2 are the mother-in-law and father-in-law of the petitioner. It is further submitted that on account of a matrimonial discord of the petitioner with her husband Gurminder Singh, she has filed a petition/complaint under the Domestic Violence Act and also a criminal complaint under Sections 406 and 498-A IPC at Moga.

Counsel for the petitioner has further submitted that the respondents have filed a civil suit for permanent injunction, as a counter-blast, just to harass her, without impleading the husband of the petitioner, before the Civil Judge (Jr. Division), Jalandhar.

Counsel for the petitioner has also argued 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 85 Kms from Moga to Jalandhar.

Counsel for the petitioner 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 has 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.”

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 the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important the 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.

Counsel for the respondent has, however, contested the submissions made by counsel for the petitioner on the ground that this is an independent proceedings initiated by the parents-in-law of the petitioner.

After hearing the counsel for the parties, considering the fact that the petitioner/wife will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. ***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 9 of the Hindu Marriage Act, pending before the Civil Judge (Jr. Division), Jalandhar will be transferred to the competent Court of jurisdiction at Moga.*
- 2. The District Judge, Moga, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Civil Judge (Jr. Division), Jalandhar is directed to transfer all the record pertaining to the aforesaid case to*

District Judge, Moga.

4. The parties are directed to appear before the trial Court, Moga, within a period of 01 month from today.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

13.07.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No