

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

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TA-142-2022 (O&M)
Date of decision: 29.07.2022

Shalini Nagpal @ Shalini Arora**...Petitioner**

Versus

Rajat Arora**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Naveen Sharma, Advocate
for the petitioner.

Mr. Gagneshwar Walia, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

While issuing notice of motion on 21.03.2022, the following
order was passed:

“The applicant is seeking transfer of a petition bearing No.HMA-4/2022 titled as 'Rajat Arora Vs. Shalini Arora' filed by the respondent under Section 9 of the Hindu Marriage Act, 1955 which is pending in the Court of Civil Judge (Jr. Divn.), Chandigarh (Annexure P-1), to a Court of competent jurisdiction at Bathinda.

Learned counsel for the applicant inter alia contends that the applicant along with her one year old child is presently residing at her parental home at Bathinda where she is living at the mercy of her parents. Hence, it would be very difficult for her to commute on each and every date of hearing from Bathinda to Chandigarh as the distance between two places is approximately 245 kms.

On a pointed query put to the learned counsel as to whether there were some other cases also pending

between the parties, he replied in the negative.

Notice of motion for 25.07.2022.”

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner-wife is residing at Bathinda and the respondent-husband has filed the present petition under Section 9 of the Hindu Marriage Act at Chandigarh in order to harass the petitioner. It is further submitted that the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 240 kms between the aforesaid two places.

Learned counsel for the petitioner further submits that the petitioner is having a minor child, who is living in her care and custody, therefore, it is very difficult for her to defend the said case at Chandigarh.

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.*”

Learned counsel for the respondent-husband has opposed the prayer of the petitioner-wife.

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 if the aforesaid petition is not transferred, the petitioner-wife will have to bear the litigation expenses and transportation expenses and also in view of the ratio of law laid down by Hon'ble Supreme Court in **Sumita Singh's** case (supra) and **Rajani Kishor Pardeshi's** case (supra), this Court deems it appropriate to allow the present petition, with the following directions:-

- (i) *The petition filed under Section 9 of the Hindu Marriage Act, pending before the Civil Judge (Jr. Divn.), Chandigarh will be transferred to the competent Court of jurisdiction at Bathinda.*
- (ii) *The District Judge, Bathinda will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Civil Judge (Jr. Divn.), Chandigarh is directed to transfer all the record pertaining to the aforesaid case to District Judge, Bathinda.*
- (iv) *The parties are directed to appear before the trial Court at Bathinda within a period of 01 month from today.*

29.07.2022

Waseem Ansari(ARVIND SINGH SANGWAN)
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*