

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-158 of 2022 (O&M)
Date of decision: 21.10.2022

Kanika

..Petitioner

Versus

Suryakant Gautam

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.K.Yadav, Advocate, for the petitioner.
Mr. Rahul Vats, Advocate, for the respondent.

ANIL KSHETARPAL, J(Oral)

Through this petition, the petitioner (wife) prays for transfer of the petition filed bearing No.HMA/533/2021, titled as “Suryakant Gautam vs. Kanika”, pending in the Court of Principal Judge, Family Court, Panchkula, to the Court of competent jurisdiction at Kurukshetra.

On 14.03.2022, the following order was passed:-

“The applicant is seeking transfer of a petition bearing No.HMA/533/2021 titled as 'Suryakant Gautam Vs. Kanika' filed by the respondent under Section 13 of the Hindu Marriage Act, 1955 which is pending in the Court of learned Principal Judge, Family Court, Panchkula, to a Court of competent jurisdiction at Kurukshetra.

Learned counsel inter alia contends that after she was thrown out of her matrimonial home by the respondent, she (along with her two minor children) had been residing with her parents at Kurukshetra and living at their mercy. It would, therefore, be very difficult for her to travel alone from Kurukshetra to Panchkula which is almost 100 kms. away, on each and every date of hearing. Learned counsel submits that the case at Panchkula is at the initial stage. It has also been submitted that the following litigations are already pending between the parties at District Courts at Kurukshetra, which were instituted prior in time to the aforementioned petition under Sections:-

i) 128 Cr.P.C.

ii) 7, 9 and 25 of the Guardian and Wards Act, 1890

Notice of motion for 12.05.2022.

Process dasti as well.

The applicant is at liberty to serve the respondent through his counsel representing him before the Court below.

Meantime, the Court below dealing with the petition under Section 13 of the Hindu Marriage Act, 1955 is directed to adjourn the case beyond the date fixed by this Court.”

A detailed reply to the petition has been filed by the respondent, contesting the transfer application. However, the correctness of the facts noticed in the order dated 14.03.2022 is not in dispute.

Keeping in view the aforesaid assertions which are not disputed, the petition is allowed and the case file bearing No.HMA/533/2021 titled as 'Suryakant Gautam Vs. Kanika' is ordered to be transferred to the Court of competent jurisdiction at Kurukshetra.

The parties through their counsels are directed to appear before the Court of District Judge, Kurukshetra, on 15.11.2022, who will try the case himself or assign it to the Court of competent jurisdiction.

The transferor Court is requested to remit the case file to the transferee Court forthwith.

All the pending miscellaneous applications, if any, are also disposed of.

October 21, 2022

nt

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*