

TA-192-2022 (O&M)

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

**TA-192-2022 (O&M).
Decided on: 12.07.2022.**

Damini

.. Petitioner

VERSUS

Shresth Kumar

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

*** * ***

**PRESENT Mr.Shashikant Gupta, Advocate,
for the petitioner.**

**Mr.Atul Yadav, Advocate,
for the respondent.**

ARVIND SINGH SANGWAN, J. (ORAL)

As per report of the Mediator, no amicable settlement could be arrived at between the parties.

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, titled as “Shreshth Kumar Vs. Smt. Damini” HMA No.76 of 2021, pending in the Court of learned Addl. District Judge, Charkhi Dadri, to the competent Court of jurisdiction at Patudi, District Gurugram.

Counsel for the petitioner submits that the petitioner has already filed a petition under Section 125 Cr.P.C. which is pending before the Family Court at Padudi. He further submits that a female child born out of the wedlock of the parties is also living in the care and custody of the petitioner and therefore, it is very difficult for her to travel to and from from Charkhi Dadri to Patudi, which is at a distance of more than 75 kilometers without the assistance of a male member from the family.

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.

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Counsel for the respondent has opposed the prayer for transfer of the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act.

After hearing the learned counsel for the parties and considering the facts and circumstances of this case, the present petition is allowed. The petition filed under Section 9 of the Hindu Marriage Act, titled as “Shreshth Kumar Vs. Smt. Damini” HMA No.76 of 2021, pending in the Court of learned Addl. District Judge, Charkhi Dadri, will be transferred to the competent Court of jurisdiction at Patudi, District Gurugram.

The parties are directed to appear before the District Judge, Gurugram, on 8.8.2022. It will be open to the District Judge, Gurugram, to entrust the case to the Court of competent jurisdiction.

File, complete in all respects, be sent to the Court of District Judge, Gurugram, well before the date fixed.

July 12, 2022.
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No