

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

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**TA-226-2020 (O&M)
Date of decision: 06.09.2022**

Amritpal Singh and another**...Petitioners**

Versus

Mohit Bhalla**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Inderjeet Singh, Advocate
for the petitioners.

Mr. G. S. Sirphikhi, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the responden under Sections 25, 12, 7 and 8 of the Guardians and Wards Act, 1890 for the custody of the minor children, pending before the Family Court, Gurdaspur to the competent Court of jurisdiction at Jagadhri, Yamuna Nagar.

Petitioner No. 2 is stated to have died.

Learned counsel for the petitioner submits that the marriage of the daughter of the petitioners' was solemnized with the respondent on 13.02.2013 and out of the said wedlock, two children have born, who are now aged about 7 and 8 years. It is further submitted that unfortunately the daughter of the petitioners allegedly committed suicide on 22.11.2018 and since then, the minor children are residing with the petitioners.

Learned counsel further submits that petitioner No. 2 has since died and petitioner No. 1 is a senior citizen and he is not able to pursue the

aforesaid case at Gurdaspur. It is further submitted that as per Section 9 of the Guardians and Wards Act, 1890, the jurisdiction will be at a place, where the minor child is residing and in the present case, both the minor children are residing at Yamuna Nagar.

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 petitioner has further relied upon ***2022 Live Law (SC) 627 N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha***, wherein Hon'ble Supreme Court has held as under:

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the

prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

Learned counsel for the respondent has not disputed the fact that as per Section 9 of the Guardians and Wards Act, 1890, the jurisdiction will be at a place, where the minor child is residing.

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), ***Rajani Kishor Pardeshi's*** case (supra) and ***N.C.V. Aishwarya's*** case (supra), this Court deems it appropriate to allow the present petition, with the following directions:-

- (i) *The aforesaid petition filed under Sections 25, 12, 7 and 8 of the Guardians and Wards Act, 1890, pending before the Family Court, Gurdaspur will be transferred to the competent Court of jurisdiction at Jagadhri, Yamuna Nagar.*
- (ii) *The District Judge, Yamuna Nagar will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Gurdaspur is directed to transfer all the record pertaining to the aforesaid case to District Judge, Yamuna Nagar.*
- (iv) *The parties are directed to appear before the trial Court at Jagadhri, Yamuna Nagar within a period of 01 month from today.*
- (v) *The Courts concerned, where the cases are pending between the parties, will accommodate them with one date in a calendar month.*

06.09.2022

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