

TA-262-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

TA-262-2022 (O&M).
Decided on: 12.07.2022.

Sunaina

.. Petitioner

VERSUS

Dalip Kumar

.. Respondent

* * *

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

* * *

PRESENT Mr.Hritik Gupta, Advocate,
for the petitioner.

ARVIND SINGH SANGWAN, J. (ORAL)

CM-4843-CII-2022

Prayer in this application is for placing on record copies
of Annexures P-2 to P-4.

Heard.

For the reasons stated in the application, the same is
allowed.

Annexures P-2 to P-4, are permitted to be taken on
record.

Main case

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 “Dalip Kumar Vs. Sunaina” HMA No.2147 of 2021, pending in the Court of learned Principal Judge, Family Court, Amritsar, to the competent Court of jurisdiction at Gurdaspur.

Learned counsel inter alia contends that after she was thrown out of her matrimonial home by the respondent, she had been residing with her parents at Gurdaspur and living at their mercy. It would therefore be very difficult for her to travel alone from Gurdaspur to Amritsar on each and every date of hearing.

A pointed query was put to learned counsel as to whether any other case is pending between the parties, he submits that following petitions are pending between the parties before the Courts at Gurdaspur:

(i) Section 125 Cr.P.C

(ii) a criminal complaint under Sections 406 and 498-A IPC On further query as to which out of above-said two cases was filed prior to the filing of petition under Section 9 of Hindu Marriage Act, learned counsel sought adjournment to get necessary instructions in the said regard.

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.

As per office report, respondent has refused to accept the notice and the service is effected by way of affixation. There is no representation on behalf of the respondent.

After hearing the learned counsel for the petitioner 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 “Dalip Kumar Vs. Sunaina” HMA No.2147 of 2021, pending in the Court of learned Principal Judge, Family Court, Amritsar, will be transferred to the competent Court of jurisdiction at Gurdaspur.

The parties are directed to appear before the District Judge, Gurdaspur, on 8.8.2022. It will be open to the District Judge,

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Gurdaspur, to entrust the case to the Court of competent jurisdiction.

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

July 12, 2022.
raj arora

Whether speaking / reasoned
Whether reportable

(ARVIND SINGH SANGWAN)
JUDGE
Yes / No
Yes / No