

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

**TA-290-2022 (O&M)
Date of decision: 22.07.2022**

Rajni

...Petitioner

Versus

Surender Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Kanav Bansal, Advocate
for the petitioner.

Ms. Manpinder Kaur, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

On 25.03.2022, while issuing notice of motion, the following
order was passed:

“The applicant is seeking transfer of a petition bearing No.HMA/321/2022 titled as 'Surender Singh Vs. Rajni' 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, Guhla, District Kaithal (Annexure P-1), to a Court of competent jurisdiction at Budhlada, District Mansa, which is approximately 85 kms. away.

Learned counsel for the applicant submits that following cases are pending before the Court at Budhlada wherein the respondenthusband has already been appearing:- i) Petition under Section 125 Cr.P.C. ii) Petition under Section 9 of the Hindu Marriage Act, 1955.

It has also been submitted by learned counsel that ever since she was thrown out of her matrimonial home, the applicant has been residing with her parents at

Budhlada along with her two minor daughters. Learned counsel submits that in the circumstances, it would be extremely difficult for her to travel all the way to Kaithal for attending the proceedings in the petition under Section 13 of the Hindu Marriage Act, 1955.

Notice of motion for 22.07.2022.

Meantime, the Court below shall adjourn the case beyond the date fixed by this Court.”

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner has filed the aforesaid two cases at Budhlada and as a counter-blast to the same, the respondent-husband has filed the present petition under Section 13 of the Hindu Marriage Act at Guhla, District Kaithal in order to harass the petitioner-wife. It is further submitted that the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 85 kms. between the said two places.

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 13 of the Hindu Marriage Act, pending before the Family Court, Guhla, District Kaithal will be transferred to the competent Court of jurisdiction at Budhlada, District Mansa.*
- (ii) *The District Judge, Mansa will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court, Guhla is directed to transfer all the record pertaining to the aforesaid case to District Judge, Mansa.*
- (iv) *The parties are directed to appear before the trial Court at Budhlada, District Mansa within a period of 01 month from today.*

22.07.2022

Waseem Ansari

Whether speaking/reasoned
Whether reportable

(ARVIND SINGH SANGWAN)
JUDGE

Yes/No
Yes/No