

TA-307-2022 (O&M)

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

**TA-307-2022 (O&M).
Decided on: 12.07.2022.**

Smt. Neha

.. Petitioner

VERSUS

Rohit Kumar

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

*** * ***

**PRESENT Mr.Lalit Kumar Yadav, Advocate,
for the petitioner.**

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, pending in the Court of learned Principal Judge, Family Court, Panchkula, to the competent Court of jurisdiction at Yamuna Nagar.

Learned counsel for the petitioner submits that out of wedlock, a female child was born who is living in the care and custody of the petitioner at Yamuna Nagar.

Learned counsel further submits that the petitioner-wife has already filed a petition under Section 125 Cr.P.C. for maintenance which is pending before the Principal Judge, Family Court, Yamuna Nagar and

now the petition has been filed by the respondent-husband under Section 9 of the Hindu Marriage Act, which is pending at Panchkula.

In pursuance of the notice of motion, the Registry has submitted a report that the respondent has left the address given in the memo of parties mentioned in the petition under Section 9 of the Hindu Marriage Act, five years ago whereas the said petition is filed on 20.7.2020 which demonstrates that respondent-husband is evading service on false grounds.

Counsel for the petitioner submits that a female child born out of the wedlock is living in the care and custody of the petitioner at Yamuna Nagar and therefore, it would be very difficult for her to travel to and fro from Panchkula to Yamuna Nagar on each and every date of hearing by living the minor child behind.

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

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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.

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, pending in the Court of learned Principal Judge, Family Court, Panchkula, will be transferred to the competent Court of jurisdiction at Yamuna Nagar.

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

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

July 12, 2022.
raj arora

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No