

TA-339-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

TA-339-2022 (O&M).
Decided on: 12.07.2022.

Mandeep Kumari

.. Petitioner

VERSUS

Deepak Kumar and another

.. Respondents

* * *

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

* * *

PRESENT Mr.Sarju Puri, 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 13 of the Hindu Marriage Act, titled as “Deepak Kumar Vs. Mandeep Kumari” HMA No.47 of 2022, pending in the Court of learned Addl. Principal Judge, Family Court, Faridabad, to the competent Court of jurisdiction at SBS Nagar.

As per office report, respondent No.1 is residing in Canada.

Counsel for the petitioner submits that the petitioner-wife has already filed a petition under Section 125 Cr.P.C. which is pending before the learned Family Court, District SBS Nagar. Counsel further

submits that the respondent-husband who is residing in Canada has filed the petition under Section 13 of the Hindu Marriage Act, at Faridabad, through his attorney which is reflected in the memo of parties of the divorce petition (Annexure P-1).

Learned counsel further submits that in view of the long distance between Faridabad and SBS Nagar and also in view of the fact that the petitioner has to bear the expenses for travelling and litigation, the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, at Faridabad be transferred to SBS Nagar.

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

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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 13 of the Hindu Marriage Act, titled as “Deepak Kumar Vs. Mandeep Kumari” HMA No.47 of 2022, pending in the Court of learned Addl. Principal Judge, Family Court, Faridabad, will be transferred, to the competent Court of jurisdiction at SBS Nagar.

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

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

July 12, 2022.

raj arora

Whether speaking / reasoned
Whether reportable

(ARVIND SINGH SANGWAN)

JUDGE

Yes / No
Yes / No