

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

**TA No.530 of 2022 (O&M)
Date of decision: 12.07.2022**

Mandeep Kaur and another

....Petitioners

Versus

Harjinder Kaur and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. M.S. Bhatti, Advocate
for the petitioners.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of civil suit bearing No.39/2021 filed by the respondent No.1 – Harjinder, pending in the Court of Additional Civil Judge (Sr. Division), Khadur Sahib, District Tarn Taran to the competent Court of jurisdiction at Amritsar.

Counsel for the petitioners has argued that on account of sudden demise of the husband of petitioner No.1, she along with the minor daughter, has been ousted from the matrimonial home and a civil suit is going on between the parties at Khadur Sahib, District Tarn Taran.

Counsel for the petitioners has also argued that on account of the civil suit, the petitioners are facing great difficulty in prosecuting the said case as there is a distance of about 55 Kms from Amritsar to Khadur Sahib, District Tarn Taran.

Counsel for the petitioners has further contended that the petitioners is having a minor child, who is living in her care and custody and she is facing difficulty to defend the case as she has to

travel from Amritsar to Khadur Sahib, District Tarn Taran.

Counsel for the petitioners 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.

After hearing the counsel for the petitioners, considering the fact that issuance of notice to the respondents has the consequences of staying further proceedings before the trial Court, otherwise the petitioners/wife will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. **Sumita Singh’s case (supra)** and **Rajani Kishor Pardeshi’s case (supra)** passed by the Hon’ble Supreme Court, this Court deem it appropriate to

allow the present petition, subject to the following conditions:-

1. *The civil suit bearing No.39/2021, pending before the Court of Additional Civil Judge (Sr. Division), Khadur Sahib, District Tarn Taran will be transferred to the competent Court of jurisdiction at Amritsar.*
2. *The District Judge, Amritsar, will assign the said petition to the competent Court of jurisdiction.*

However, liberty is granted to the respondents to revive this petition, if he intent to contest the same, provided that:-

- (a) *The respondents will file an affidavit giving undertaking to pay Rs.1,000/- per day, to the petitioners for attending the Court proceedings at Khadur Sahib, District Tarn Taran, on each and every date of hearing.*
- (b) *The respondents will bring a demand draft of Rs.25,000/- towards the litigation expenses of the petitioners to pursue the case at Khadur Sahib, District Tarn Taran in case the respondents opt to contest this petition.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

12.07.2022
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No