

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

**TA No.683 of 2021 (O&M)
Date of decision: 10.10.2022**

Baljeet Kaur @ Baljit Kaur

....Petitioner

Versus

Sarabjit Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vibhor Bansal, Advocate
for the petitioner.

Mr. S.S. Rangi, Advocate
for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the petition filed under Section 13 of the Hindu Marriage Act, pending in the Family Court, Patiala to the competent Court of jurisdiction at Rupnagar.

Counsel for the petitioner has argued that the petitioner/wife is working as a Constable in Border Security Forces (B.S.F.) and is having two minor children, who are living in her care and custody. It is further submitted that the elder child is presently residing with the maternal grandparents in Village Aasro, District Nawanshahr where he is studying in a school and the younger child is getting medical treatment at Chandigarh and on request, the petitioner/wife has been granted accommodation at Mohali for a period of one year. It is also argued that the respondent/husband has filed a petition under Section 13 of the Hindu Marriage Act, which may be transferred from Patiala to Rupnagar as the petitioner/wife is facing great difficulty in prosecuting the said case as there is a distance of

about 77 Kms from Rupnagar to Patiala.

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.*”

Counsel for the petitioner has also relied upon the judgment **“N.C.V. Aishwarya vs A.S. Saravana Karthik Sha,”** 2022 Live Law (SC) 627, wherein the Hon’ble Supreme Court has observed as under:-

9. The cardinal principle for exercise of power under section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when

the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

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.

Reply by way of affidavit of the respondent/husband is on record, in which the only objection taken is that since the petitioner/wife is posted at Mohali, therefore, the transfer petition deserves to be dismissed.

Rejoinder to the reply filed by the petitioner/wife is also taken on record, in which it has been explained that the petitioner/wife being the mother of two growing children is taking care of them, apart from attending her duty.

On a Court query, counsel for the respondent/husband fairly argued that the respondent/husband has not filed any petition with regard to the custody of the minor children and they are residing with the petitioner/wife.

After hearing the counsel for the parties, considering the fact that the petitioner/wife will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. ***Sumita***

Singh's case (supra), Rajani Kishor Pardeshi's case (supra) and N.C.V. Aishwarya'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 petition filed under Section 13 of the Hindu Marriage Act, pending before the Family Court, Patiala will be transferred to the competent Court of jurisdiction at Rupnagar.*
- 2. The District Judge, Rupnagar, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Patiala is directed to transfer all the record pertaining to the aforesaid case to District Judge, Rupnagar.*
- 4. The parties are directed to appear before the trial Court, Rupnagar, within a period of 01 month from today.*
- 5. The Family Court, Rupnagar will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.*
- 6. The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

10.10.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No