

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

Transfer Application No. 704 of 2022 (O & M)

Date of decision: 20.12.2022

Noor Amrit Kaur Mangat

.....Petitioner

VS

Maninder Kaur and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Achin Gupta, Advocate
for the petitioner.

Mr. D.P.S. Randhawa, Advocate
for the respondents.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioner is for transfer of the Civil Suit filed by respondents No.1 and 2/plaintiffs (mother-in-law and father-in-law of the petitioner) for permanent injunction restraining the defendants [defendant No.1-Alam Singh (son of plaintiffs and husband of petitioner/defendant No.2-Noor Amrit Kaur Mangat) defendant No.2-Noor Amrit Kaur Mangat (daughter-in-law of respondents No.1 and 2/plaintiffs)], their agents, attorney associates etc. from interfering in the peaceful possession of House No.334, Sector 2, Panchkula, which is self-acquired property of the plaintiffs, titled as “Maninder Kaur and another vs. Alam Singh and another”, pending in the Court of learned Civil Judge (Jr. Divn.), Panchkula to a Court of competent jurisdiction at Faridkot.

2. Learned counsel for the petitioner has contended :-

- i) That the petitioner and respondent No.3 were married on 01.11.2020 according to Sikh rites and rituals.
- ii) That no child was born out of this wedlock.
- iii) That the petitioner is living separately from the respondent No.3 and his family since 20.5.2021 and living with her widow mother at her mercy at Faridkot.
- iv) That the petitioner is working as a teacher in a private school and the respondent No.3-husband is not paying anything to her towards maintenance.
- v) The respondents No.1 and 2, who are petitioner's mother-in-law and father-in-law respectively, have filed a Civil Suit for permanent injunction restraining the present petitioner and respondent No.3-Alam Singh (who is defendant No.1 in the said Civil Suit before the trial Court), from interfering in the peaceful possession of House No.334, Sector 2, Panchkula, which is stated to be their self-acquired property.
- vi) The proceedings arising out of petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005; filed by the petitioner against the respondents (who are mother-in-law, father-in-law and husband of the petitioner), are pending in the Courts having competent jurisdiction at Faridkot.
- v) That the distance between place of residence of the petitioner-wife i.e. Faridkot and the place of proceedings in the aforesaid Civil Suit filed by respondents No.1 and 2, pending before the Civil Judge (Jr. Divn.), Panchkula, is about 240 kilometers of one side.
- vi) That there is no proficient male member in the family of the petitioner, who can accompany her to the Court of proceedings at Panchkula.

3. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.

4. I have heard learned counsel for the petitioner.
5. Since the connected petition i.e. Transfer Application No.27 of 2022 has been allowed, learned counsel for the respondent is not in a position to controvert the plea of the petitioner in the present petition except that respondents No.1 and 2 are old aged persons.

The legal position in such like cases as the present one, is well established. In this regard, judgment of the Hon'ble Supreme Court rendered in **N.C.V. Aishwarya vs A.S. Saravana Karthik Sha," 2022 Live Law (SC) 627**, is most relevant wherein the Hon'ble Supreme Court has held 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.”

5. Further reliance can be placed upon the judgments in **“Sumita Singh vs Kumar Sanjay”, 2002 SC 396** and **“Rajani Kishor Pardeshivs 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.”

6. Even this Court in number of cases has followed the aforesaid principle of law. Accordingly, 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.

7. In view of the facts mentioned above and 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 deems it appropriate to allow the present petition, subject to the following conditions:-

- a) The aforesaid Civil Suit filed by respondents No.1 and 2, titled as ‘Maninder Kaur and another vs. Alam Singh and another’, detailed in para 1 of this judgment, pending before the Civil Judge (Jr. Divn.), Panchkula is transferred to a Court of competent jurisdiction at Faridkot.

- b) The ld. District Judge, Panchkula is directed to transfer complete record pertaining to the aforesaid case to District Judge, Faridkot.
- c) The parties are directed to appear before the District & Sessions Judge, Faridkot on 23.1.2023.
- d) The District Judge, Faridkot will assign the said petition to the Court of competent jurisdiction.

8. The concerned Court at Faridkot 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.

9. The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.

11. I am supported by the decisions rendered by a Co-ordinate Bench of this Court in **TA No. 1315/2022, Rohini Arora v Nitin Talwar; TA No. 1322 of 2022, Jaswinder Kaur v Gurvinderjeet Singh; and TA No. 1323 of 2022, Usha Rani v Karmajit Singh.**

Disposed of.

Pending application(s), if any, stands disposed of.

December 20, 2022

Vijay Asija

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

YES/NO

Whether Reportable

YES/NO