

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

TA No.799 of 2022

Date of decision: 06.12.2022

Amrita Rani @ Amrita

...Petitioner

v

Bhupinder Gill

...Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Jasraj Singh, Advocate for the petitioner.

Mr. GS Rawat, Advocate for the respondent.

NIDHI GUPTA, J.(ORAL)

1. Prayer in this petition filed by petitioner wife is for transfer of the petition bearing No.HMA/71/2020 filed by respondent-husband under Section 9 of the Hindu Marriage Act, 1955, titled "Bhupinder Gill vs. Amrita" pending in the Court of Principal Judge, Family Court, Rupnagar, to a court of competent jurisdiction at Hoshiarpur.

2. Learned counsel for the petitioner, inter alia, submits that:

i) that the marriage between the parties was solemnized on 26.11.2005 according to Hindu rites and rituals.

ii) that two daughters were born out of this wedlock.

iii) that the petitioner is residing with her aged parents at Hoshiarpur w.e.f. 11.11.2019.

iv) that the distance between her place of residence and place of proceedings is 90 kms. (one side).

v) that the petitioner has also filed a complaint under the Protection of Women from Domestic Violence Act, 2005, at Hoshiarpur and application for seeking interim maintenance in which Ld. Court at Garhshankar ordered Rs.4000/- per month as maintenance allowance along with Rs.5000/- as litigation expenses.

3. Learned counsel for the respondent opposed the present petition

and states that in actual fact the petitioner is not residing in Rupnagar, but

is living in Garshankar, District Hoshiarpur, which is only 50 kms. away from Rupnagar. It is further submitted that unlike the petitioner, the respondent is working as he has to support both the minor daughters who are residing with him, and in order to provide them all the amenities, regarding their needs, and all love and emotional support is provided only by him as their mother has deserted the matrimonial home. It is further submitted that in this situation it will be more inconvenient and problematic for him to travel to Hoshiarpur, whereas, as the petitioner is not working and has no responsibility of the children either, therefore no inconvenience will be caused to her.

4. I have heard learned counsel for the parties.

5. I find merit in the submissions advanced on behalf of the respondent. This Court is well aware of the preponderance of law in cases of transfer emanating from matrimonial disputes is in favour of the wife. However, in the facts and circumstances of the present case it is clear that it will be more inconvenient for the respondent to travel constantly to Hoshiarpur to pursue the proceedings there. Admittedly he has the responsibility of looking after the daily needs as well as provide all support to the minor daughters who are in his care and custody.

6. Moreover, in other similar cases like this present one, the Hon'ble Supreme Court, as well as this Court have refused relief to the wife. One such case which may be referred to is: **(2006) 9 SCC 197 'Anindita Das Vs. Srijit Das'** wherein Hon'ble Supreme Court under similar circumstances dismissed the wife's application seeking transfer of petition filed by the husband. Reference in this regard may also be made to two cases of this Court where, in similar circumstances this Court had

dismissed transfer applications filed on behalf of the wife. These are: **TA no. 126 of 2018 Smt. Akhwinder Kaur Vs. Sh. Gurpreet Singh;** and **TA No. 299 of 2019 Nisha alias Manisha vs. Amarveer Yadav.**

7. Dismissed.

06.12.2022

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)

Judge