

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

TA-876-2021 (O&M)  
Date of decision: 26.07.2022

Rajwinder Kaur

....Petitioner

Vs.

Davinderpal Singh

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

**Present:** Mr. Vikram Bali, Advocate  
for the petitioner.

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

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**ARVIND SINGH SANGWAN, J. (Oral)**

Prayer in this petition is for transfer of the petition filed by the respondent-husband under the Guardians and Wards Act, 1890, pending before the Family Court, Rupnagar to the competent Court of jurisdiction at Phagwara.

While issuing notice of motion, following order was passed by this Court on 20.09.2021: -

*“This petition has been filed by the wife seeking the transfer of*

*the petition filed under the Guardians and Wards Act, 1890, bearing case filing No.855/2021 and registration No.36/2021 (CNR No.PBR001-002478-2021), titled as “Davinderpal Singh Vs. Rajwinder Kaur”, pending in the Court of Principal Judge, Family Court, Rupnagar, to the Court of competent jurisdiction at Family Court Camp, Phagwara.*

*The petitioner claims that she got married to the respondent on 21.04.2002 and they have been blessed with two children. She claims that presently, she is residing with her parents at Village Akalgarh, Tehsil Phagwara, District Kapurthala and the distance between Rupnagar and Phagwara is more than 80 Kms. The petitioner further claims that she cannot properly defend the petition at Rupnagar.*

*The learned counsel representing the petitioner places reliance on the pendency of the petition filed under Section 125 Cr.P.C. at Camp Courts, Phagwara, District Kapurthala. He further contends that it will be very difficult for the petitioner to travel on each date of hearing.”*

Learned counsel 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 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.”*

Learned counsel for the respondent has filed the reply and contested the present petition.

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 family condition of the wife, custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important, 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 petitioner, considering the fact that the petitioner-wife will have to bear the litigation expenses and transportation expenses and in view of the judgments in **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 petition filed under the Guardians and Wards Act, 1890, pending before the Family Court, Rupnagar will be transferred to the competent Court of jurisdiction at Phagwara.*

2. *The District Judge, Kapurthala will assign the said petition to the competent Court of jurisdiction at Phagwara.*
3. *The Family Court, Rupnagar is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, Kapurthala.*
4. *The parties are directed to appear before the Family Court, Phagwara within a period of 01 month from today.*

Present petition is disposed of accordingly.

**[ ARVIND SINGH SANGWAN ]**  
**JUDGE**

26.07.2022

*vishnu*

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No