

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

211

TA-881-2021 (O&M)
Date of decision: 12.10.2022

Priyanka**...Petitioner**

Versus

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

Present:- Mr. Ivneet Singh Pabla, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

While issuing notice of motion on 20.09.2021, the following
order was passed:

“This petition has been filed by the wife seeking the transfer of the petition filed under Section 9 of the Hindu Marriage Act, 1955, bearing case No.DMC/37/2021, titled as “Manjeet vs. Priyanka”, pending in the Court of Principal District Judge, Family Court, Loharu, District Bhiwani, to the Court of competent jurisdiction at Jhajjar.

The petitioner claims that she got married to the respondent on 12.02.2010 and they have been blessed with two children. She claims that presently, she is residing with her parents in village Khanpur Khurd, Tehsil Matanhel, District Jhajjar and the distance between Loharu, District Bhiwani to Jhajjar is more than 145 Kms. The petitioner further claims that she cannot properly defend the petition at Loharu, District Bhiwani.

The learned counsel representing the petitioner places reliance on the pendency of the petition filed

under Section 13 of the Hindu Marriage Act, 1955, at Jhajjar. The learned counsel contends that it will be very difficult for the petitioner to travel on each date of hearing.

Notice of motion for 27.10.2021...”

Learned counsel for the petitioner submits that it is well settled principle of law that the petitions filed under Section 13 as well as Section 9 of the Hindu Marriage Act should be decided by the same, therefore, the petition filed by the respondent-husband may be transferred to the competent Court of jurisdiction at Jhajjar.

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 petitioner has further relied upon ***2022 Live Law (SC) 627 N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha***, wherein 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.”

As per office report, the respondent is served, however, there is no representation on his behalf.

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 if the aforesaid petition is not transferred, the petitioner-wife will have to bear the litigation expenses and transportation expenses and also in view of the ratio of law laid down by Hon'ble Supreme Court in *Sumita Singh's*

case (supra), ***Rajani Kishor Pardeshi***'s case (supra) and ***N.C.V. Aishwarya***'s case (supra), this Court deems it appropriate to allow the present petition, with the following directions:-

- (i) *The petition filed under Section 9 of the Hindu Marriage Act, pending before the Family Court, Loharu, District Bhiwani will be transferred to the competent Court of jurisdiction at Jhajjar.*
- (ii) *The District Judge, Jhajjar will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Loharu, District Bhiwani is directed to transfer all the record pertaining to the aforesaid case to District Judge, Jhajjar.*
- (iv) *The parties are directed to appear before the trial Court at Jhajjar within a period of 01 month from today.*
- (v) *The Courts concerned, where the cases are pending between the parties, will accommodate them with one date in a calendar month.*

12.10.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No