

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-948-2021 (O&M)
Date of decision: 27.07.2022

Hardeep Kaur

....Petitioner

Vs.

Kamaljit Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Manpreet Kaur Mavi, Advocate for
Mr. Nipun Vashist, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, pending before the Family Court, Patiala to the competent Court of jurisdiction at SAS Nagar (Mohali).

While issuing notice of motion, following order was passed by this Court on 17.12.2021: -

“This petition has been filed by the petitioner-wife seeking transfer of the petition filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955, being

DMC/818/2019 titled as “Kamaljit Singh vs. Hardeep Kaur” pending in the Court of Principal Judge, Family Court, Patiala, to the Court of competent jurisdiction at SAS Nagar (Mohali).

Learned counsel for the petitioner would contend that the petitioner got married to the respondent on 20.02.2010 and out of the said wedlock a female child was born. The petitioner along with her minor child is residing with her parents at Derabassi, District SAS Nagar (Mohali) and in order to attend the proceedings before the Family Court at Patiala, she would have to travel a distance of 66 kms (one way). It is further contended that though maintenance was granted to the petitioner and the minor daughter in the proceedings under Section 125 Code of Criminal Procedure, 1973, however, not a single penny is being paid to the petitioner...”

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.”

As per office report, the respondent is served through the counsel representing him before the trial Court, 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 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 Section 13 of the Hindu Marriage Act, pending before the Family Court, Patiala will be transferred to the competent Court of jurisdiction at SAS Nagar (Mohali).*
- 2. The District Judge, SAS Nagar (Mohali) 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(s) to District Judge, SAS Nagar (Mohali).*

4. *The parties are directed to appear before the Family Court, SAS Nagar (Mohali) within a period of 01 month from today.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

27.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No