

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-954-2021 (O&M)
Date of decision: 20.07.2022

Paramjit Kaur

....Petitioner

Vs.

Gurbachan Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Savita Rana, Advocate
for the petitioner.

Mr. Parminder Singh, Advocate
for respondents No.1 to 3.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of Civil Suit No.154 of 2020 titled as Gurbachan Singh Vs. Paramjit Kaur and others, pending before the Civil Judge (Jr. Divn.), Karnal to the competent Court of jurisdiction at Panchkula.

Learned counsel for the petitioner has argued that petitioner Paramjit Kaur was married to respondent No.2 Rakesh Kumar, who is brother of respondent No.1 Gurbachan Singh and he filed the aforesaid civil suit praying for a decree of permanent injunction against the petitioner and others, alleging that she is his sister-in-law and wife of defendant No.4

Rakesh Kumar and is trying to interfere in his peaceful possession over the property in dispute, which is situated in Arya Nagar, Gharaunda, District Karnal. It is further stated by the plaintiff that Om Parkash i.e. father-in-law of the petitioner, executed a conveyance deed in his favour.

Learned counsel further submits that the petitioner is having two minor school going children, who are residing in her care and custody at Panchkula and it is difficult for her to defend the said case at Karnal and on the face of it, in order to oust the right of grandchildren, Om Parkash transferred the property in favour of respondent No.1-plaintiff Gurbachan Singh on account of the matrimonial discord between the petitioner and her husband Rakesh Kumar, who is son of Om Parkash, therefore, the civil suit may be transferred from Karnal to Panchkula.

It is further submitted that even a civil suit has been filed by minor children of the petitioner against their grandfather-Om Parkash and a transfer petition for transfer of the said suit is also pending before this Court.

Learned counsel for respondents No.1 to 3 has, however, submitted that as per Section 16 of the Code of Civil Procedure, jurisdiction lies with the Court, where the suit property is situated, therefore, the suit be not transferred from Karnal to Panchkula.

In judgments of the Hon'ble Supreme Court in **Sumita Singh Vs. Kumar Sanjay, 2002 SC 396** and **Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi, 2005(12) SCC 237**, it is 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.”

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 learned counsel for the parties, I find that in fact, there is a matrimonial discord between the petitioner and her husband, who is arrayed as defendant No.4 and her father-in-law is arrayed as defendant No.5 and basis of the said suit is conveyance deed, vide which Om Parkash transferred the property in favour of Gurbachan Singh and the fact that a separate civil suit has already been filed by grandchildren against Om Parkash.

On the face of it, it is a family dispute arising out of matrimonial discord.

In view of the above, 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. Civil Suit No.154 of 2020 titled as Gurbachan Singh Vs. Paramjit Kaur and others, pending before the Civil Judge (Jr. Divn.), Karnal will be transferred to the competent Court of jurisdiction at Panchkula.*
- 2. The District Judge, Panchkula, will assign the said suit to the competent Court of jurisdiction.*
- 3. The Civil Court, Karnal is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, Panchkula.*
- 4. The parties are directed to appear before the District Judge, Panchkula within a period of 01 month from today.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

20.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No