

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

207

TA No.538 of 2020(O&M)

Date of decision: 20.12.2022

Dr. Pooja

...Petitioner(s)

v

Dr. Krishan Kumar

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Dinesh Arora, Advocate for the petitioner.

Mr. Keshav P. Singh, 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.DMC/657/2020 filed under Section 13 of the Hindu Marriage Act, 1955; and petition bearing No.44/2020 under Section 7 of the Guardian and Wards Act, 1890, by the respondent-husband, titled "Dr. Krishan Kumar vs. Dr. Pooja" both presently pending in the Court of Principal Judge, Family Court, Rohtak, to a court of competent jurisdiction at Bhiwani.

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

i) that the marriage between the parties was solemnized on 27.11.2010 according to Hindu rites and rituals.

ii) that one son was born out of this wedlock.

iii) that the petitioner along with her 7 year old son is residing at Bhiwani as she is posted as District Adolescence Officer, Bhiwani.

iv) that the parties are living separately since the year 2016.

v) that in earlier litigation, she compromised the matter on false assurance of the respondent regarding his better treatment.

3. Learned counsel for the respondent opposed the present petition and states that the ancestral house of both the parties is in Rohtak, and that in actual fact, the petitioner is residing in Rohtak itself. In support, he refers to service of summons (Annexure R/2) effected upon the petitioner in petition filed under Section 13 of HMA, at her Rohtak address. It is further submitted that the abovesaid case is at its fag end. Ld. Counsel also refers to Annexure R1 which is the school certificate of their child as per which the minor child is studying at 'The Little Shri School' in Rohtak. It is stated that in terms of Section 9 of the Guardian and Wards Act, 1890, respondent has filed the petition under Section 7 of GW Act, where the minor resides.

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, ld. Counsel for the petitioner is unable to controvert the above facts canvassed on behalf of the respondent. When questioned, ld. Counsel for the petitioner stated that for the upcoming session the child will now be attending the school at Bhiwani. However, nothing has been placed on record in support of this submission. Even no proof that the petitioner is residing in Bhiwani has been produced. Moreover, it is not in dispute that the distance between Rohtak and Bhiwani is only about 45 kms. Accordingly, I find that no inconvenience will be caused to the petitioner in contesting the cases at Rohtak.

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. Accordingly, in view of the facts and law as noticed above, the present petition stands dismissed. All the pending miscellaneous application(s), if any, are also disposed of.

20.12.2022

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)
Judge