

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

245

TA-1027-2021 (O&M)
Date of decision: 17.08.2022

Jasma Devi and another**...Petitioners**

Versus

Ladhu Ram and another**...Respondents****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Jainainder Saini, 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 respondents husband under Sections 7, 17 and 25 of the Guardians and Wards Act, 1890 read with Sections 6 and 13 of the Hindu Minority and Guardianship Act, 1956, titled as ***Ladhu Ram vs. Jasma Devi etc.***, pending before the Family Court, Fatehabad to the competent Court of jurisdiction at Hisar.

While issuing notice of motion on 01.12.2021, the following order was passed:

“Learned counsel for the petitioners would contend that the respondents, who are the in-laws of petitioner No.1, have filed a petition being case No.GW-28-2020 titled as “Ladhu Ram Vs. Jasna Devi etc.” under Sections 7, 17 and 25 of the Guardian and Wards Act, 1890 read with Sections 6 and 13 of the Hindu Minority and Guardianship Act, 1956 pending in the Court of Principal Judge, Family Court, Fatehabad which is at a distance of approximately 45 kms (one way) from Hisar.

It is further the contention of learned counsel for the petitioners that a petition filed by the petitioners under Sections 19 and 23 of the Hindu Adoption and Maintenance Act, 1956 is already pending at Hisar.

Notice of motion returnable 27.01.2022.

Process dasti as well.

The petitioners are at liberty to serve the respondents through the counsel representing them in the Court below.”

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.”

There is no representation on behalf of the respondents.

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 under Sections 7, 17 and 25 of the Guardians and Wards Act, 1890 read with Sections 6 and 13 of the Hindu Minority and Guardianship Act, 1956, pending before the Family Court, Fatehabad will be transferred to the competent Court of jurisdiction at Hisar.*
- (ii) *The District Judge, Hisar will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Fatehabad is directed to transfer all the record pertaining to the aforesaid case to District Judge, Hisar.*
- (iv) *The parties are directed to appear before the trial Court at Hisar within a period of 01 month from today.*

17.08.2022*Waseem Ansari***(ARVIND SINGH SANGWAN)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*