

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-1079-2022 (O&M)
Date of decision: 13.09.2022

Mamta

....Petitioner

Vs.

Narinder Pal and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Priya Singla, Advocate (legal aid counsel)
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

CM-11677-CII-2022

Allowed, as prayed for.

TA-1079-2022

Prayer in this petition is for transfer of Civil Suit No.1516 of 2020 filed by respondent No.1/father-in-law of the petitioner, praying for a decree of permanent injunction restraining the defendants, in which the petitioner is impleaded as defendant No.2, from entering into the house in dispute, pending before the Civil Judge (Sr. Divn.), Ludhiana to the competent Court of jurisdiction at Hoshiarpur.

Learned counsel for the petitioner has argued that respondent

No.1-plaintiff is father-in-law of the petitioner, whereas respondent No.2-defendant No.1 is her husband, who has deserted the petitioner and the suit has been filed in collusion between father and son. It is further submitted that the petitioner is residing at Hoshiarpur, where she is taking care of her two minor children, who is living with her.

Learned counsel further submits that on account of matrimonial discord with respondent No.2-husband, the petitioner has filed a petition under Section 125 Cr.P.C., a complaint under the Protection of Women from Domestic Violence Act and she also lodged an FIR No.85 of 2021 under Sections 498-A, 406 IPC, at Police Station Sadar Hoshiarpur. It is further submitted that the petitioner is facing great difficulty in prosecuting the civil suit filed by respondent No.1, as there is a distance of about 80 kms between Hoshiarpur and Ludhiana.

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 has further relied upon **N.C.V. Aishwarya Vs.**

A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627, wherein the Hon'ble Supreme Court held as under: -

“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.

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.”

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 issuance of notice to the respondents has the consequences of staying further proceedings before the trial Court, otherwise the petitioner will have to bear the litigation expenses and transportation expenses and in view of the fact that even in case notice of motion is issued, even the respondents have to bear the litigation expenses and in view of the judgments in **Sumita Singh's** case (supra), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya'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 Civil Suit No.1516 of 2020 filed by respondent No.1/father-in-law of the petitioner, pending before the Civil Judge (Sr. Divn.), Ludhiana will be transferred to the competent Court of jurisdiction at Hoshiarpur.*
2. *The District Judge, Hoshiarpur, will assign the said suit to the competent Court of jurisdiction.*
3. *The Civil Judge (Sr. Divn.), Ludhiana is directed to transfer all the record pertaining to the aforesaid case(s) to District Judge, Hoshiarpur.*
4. *The parties are directed to appear before the trial Court, Hoshiarpur within a period of 01 month from today.*
5. *The trial Court, Hoshiarpur will make all the endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of amicable settlement between the parties.*

6. *The Court concerned, where the litigations between the parties are pending, will accommodate them with one date in one calender month.*

However, liberty is granted to the respondents to revive this petition, if so advised.

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

13.09.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No