

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

-.-

**TA No.1129 of 2021(O&M)
Date of Decision: 06.01.2022**

Pardeep Kaur

....Petitioner

VERSUS

Gurpreet Singh

....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Ishan Gupta, Advocate for the petitioner.

Mr. Abhimanyu Batish, Advocate for the respondent.

ALKA SARIN, J. (Oral)

Taken up through video conferencing.

The present petition under Section 24 of the Code of Civil Procedure, 1908 has been filed by the petitioner-wife seeking transfer of the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act, 1955 (hereinafter referred to as the 'HM Act') for restitution of conjugal rights bearing No.HMA/463/2021 titled as "*Gurpreet Vs. Pardeep Kaur*" pending in the Court of Principal Judge (Family Court), Barnala to the Court of competent jurisdiction at Sangrur.

Learned counsel for the petitioner would contend that presently the petitioner along with her minor child is residing with her parents at Sangrur and she, in order to defend the case at Barnala, would need to travel a distance of 120 kms (up and down). Learned counsel for the petitioner has further contended that the petitioner is teaching in a school in a nearby village, however, she is facing financial difficulties inasmuch as she is looking after a three years old minor daughter and has to incur the expenses

of school fee etc. It is further the contention that not a penny has been paid by the respondent towards the maintenance of the petitioner or the minor child.

Per contra, learned counsel appearing on behalf of the respondent has stated that the distance is hardly 60 kms (one way) and the respondent would be open for mediation. Learned counsel has further relied upon a judgment passed by the Supreme Court in 2017(2) RCR (Civil) 358, Krishna VeniNagam Vs. Harish Nagam wherein guidelines have been laid down to mitigate the hardships of a litigant.

I have heard learned counsel for the parties.

Learned counsel for the respondent cannot gain any advantage of the judgment cited by him inasmuch as it lays down that whenever the defendant/respondent are located outside the jurisdiction of the court, the court may examine whether it is in the interest of justice to incorporate any safeguards for ensuring that summoning of the defendant/respondent does not result in denial of justice. In the present case, admittedly, no such safeguards have been incorporated by the court while issuing the summons.

Keeping in view the totality of the facts, especially the fact that the petitioner would have to travel a distance of 120 kms (up and down) and she has a minor child of three years, I find this to be a fit case for transfer of the petition filed by the respondent-husband under Section 9 of the HM Act for restitution of conjugal rights bearing No.HMA/463/2021 titled as “*Gurpreet Vs. Pardeep Kaur*” pending in the Court of Principal Judge (Family Court), Barnala to the Court of competent jurisdiction at Sangrur.

The records of the case shall be sent by the concerned Court to the Court of the learned District Sangrur, Faridabad and the parties shall appear there on **17.01.2022** at 10.00 a.m.

The present petition is disposed off in the above terms.

January 06, 2022
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO