

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

TA No.1158 of 2021 (O&M)
Date of decision: 13.09.2022

Neetu Devi

....Petitioner

Versus

Sohan Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.P.S. Rehan, Advocate
for the petitioner.

None for respondents No.1 and 2.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for transfer of the Civil Suit No.2198 of 2021, titled as "Sohan Singh and another vs Neetu Devi and others", filed by the father-in-law and mother-in-law of the petitioner against the petitioner and certain other defendants, pending in the Court of Civil Judge (Jr. Division), Jalandhar to the competent Court of jurisdiction at Pathankot.

Counsel for the petitioner has argued that in fact, the petitioner was married to one Puneet Pal Singh, who is son of the plaintiffs on 06.11.2016 and a female child was born out of this wedlock on 26.10.2017, who is living in the care and custody of the petitioner. It is further submitted that the husband of the petitioner had gone to Malaysia and has failed to maintain the petitioner as his wife as well as the minor child and on that account, the respondents i.e. father-in-law and mother-in-law, in collusion with the husband have filed a suit for permanent injunction regarding the matrimonial home just to

harass the petitioner. It is also submitted that the petitioner is presently residing at Pathankot whereas the suit has been instituted at Jalandhar and therefore, she is unable to defend the same as she has no independent source of income and has to take care of the minor child.

Counsel for the petitioner has also argued that on account of a petition filed by the respondents i.e. father-in-law and mother-in-law, the petitioner is facing great difficulty in prosecuting the said case as there is a distance of about 113 Kms from Pathankot to Jalandhar.

Counsel for the petitioner has relied upon the judgments “*Sumita Singh vs Kumar Sanjay*”, 11582 SC 396 and “*Rajani Kishor Pardeshi vs Kishor Babulal Pardeshi*”, 11585(12) SCC 237, wherein the Hon’ble Supreme Court has 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.*”

Counsel for the petitioner has also relied upon the judgment “*N.C.V. Aishwarya vs A.S. Saravana Karthik Sha*,” 2022 Live Law (SC) 627, wherein the Hon’ble Supreme Court has observed 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.”

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 the family condition of the wife, the custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important the 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.

There is no representation on his behalf of the respondents No.1 and 2 and even no reply has been filed on their behalf despite repeated adjournments.

After hearing the counsel for the petitioner, considering the fact that the petitioner/wife will have to bear the litigation expenses and transportation expenses and in view of the judgments i.e. ***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.2198 of 2021, titled as "Sohan Singh and another vs Neetu Devi and others", pending before the Court of Civil Judge (Jr. Division), Jalandhar will be transferred to the competent Court of jurisdiction at Pathankot.*
- 2. The District Judge, Pathankot, will assign the said petition to the competent Court of jurisdiction.*
- 3. The Court of Civil Judge (Jr. Division), Jalandhar is directed to transfer all the record pertaining to the aforesaid case to District Judge, Pathankot.*
- 4. The parties are directed to appear before the trial Court, Pathankot, within a period of 01 month from today.*
- 5. The Family Court, Pathankot will make all endeavour to refer the case before the Mediation and Conciliation Centre for exploring the possibility of some amicable settlement between the parties.*
- 6. The Court concerned, where the litigation pending between the parties, will accommodate them with one date in one calendar month.*

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

13.09.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No