

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

201-2

TA-1186-2021 (O&M)
Date of decision: 29.07.2022

Isha Mittal**...Petitioner**

Versus

Khushdeep Singla**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Yogesh Goel, Advocate
for the petitioner.

Mr. Rajeshwar S. Thakur, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of the petition filed by the respondent-husband under Section 25 of the Guardian and Wards Act, titled as ***Khushdeep Singla vs. Dr. Isha Mittal***, pending before the Family Court, Bathinda to the competent Court of jurisdiction at Chandigarh.

Learned counsel for the petitioner has argued that on account of a matrimonial discord, the petitioner is residing at Chandigarh, however, in order to harass the petitioner, the respondent-husband has filed the present petition under Section 25 of the Guardians and Wards Act at Bathinda. It is further submitted that the petitioner is facing great difficulty in prosecuting the said case, as there is a distance of about 250 kms between the aforesaid two places.

Learned counsel for the petitioner further submits that the petitioner is having a minor child, who is living in her care and custody, therefore, it is very difficult for her to defend the said case at Bathinda as

the minor child is studying in UKG in a school at Chandigarh.

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 respondent-husband has filed reply opposing the prayer of the petitioner-wife on the ground that mother and brother of the respondent are ill.

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.

It is admitted case that both the parties are qualified doctors and the petitioner is residing at Chandigarh, whereas the respondent is residing at Bathinda.

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) and ***Rajani Kishor Pardeshi***'s case (supra), this Court deems it appropriate to allow the present petition, with the following directions:-

- (i) *The petition filed under Section 25 of the Guardians and Wards Act, pending before the Family Court, Bathinda will be transferred to the competent Court of jurisdiction at Chandigarh.*
- (ii) *The District Judge, Chandigarh will assign the said petition to the competent Court of jurisdiction.*
- (iii) *The Family Court at Bathinda is directed to transfer all the record pertaining to the aforesaid case to District Judge, Chandigarh.*
- (iv) *The parties are directed to appear before the trial Court at Chandigarh within a period of 01 month from today.*

29.07.2022

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