

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**TA-1272-2021****Date of Decision: February 14, 2022**

Lakhvir Kaur

...Applicant

Versus

Varishat Simplay and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** Mr. Parminder Singh Kanwar, Advocate for the applicant.
None for the respondents.

ARUN MONGA, J. (ORAL)

Applicant-wife seeks transfer of petition filed by her husband (respondent) under Sections 7 and 8 read with Section 28 of the Guardian and Wards Act for appointment of guardian for minor Akshar Simplay son of petitioner and respondent No.1 pending in the Court of Learned Principal Judge, Family Court Camp at Phagwara District Kapurthala to the Court of competent jurisdiction at Hoshiarpur.

2. Learned counsel for the applicant submits that the respondent-husband has filed a petition bearing No.GW/42/2021 under Section 7 and 8 read with Section 28 of the Guardian and Wards Act, 1890 for appointment of a guardian for the minor son of the parties, Akshar Simplay, which is pending in the Court of Principal Judge, Family Court, Camp at Phagwara. He submits that the petitioner has also filed Transfer Application No.1264 of 2021 for transfer of the petition filed by respondent No.1 under Section 13(1)(ia) of the Hindu Marriage Act, 1955 from Phagwara to Hoshiarpur. He further submits that the petitioner-wife would have to travel a distance of about 80 kilometres (up & down) from her place of residence in District Hoshiarpur. He further submits that two other cases initiated by the petitioner - a petition under Section 125 Cr. P.C. for grant of maintenance and another petition under Section 12 read with Section 25 of the Guardian and Wards Act, 1890 (for short 'Act') for custody of minor son, namely Akshar Samplay and one more petition filed by respondent No.1 under Sections 12 and 25 of the Act for obtaining custody of

minor daughter, namely, Archita are already pending at Hoshiarpur. Therefore, it is difficult for her to go to Phagwara on each date of hearing.

3. It is reported that respondent No.1 had though gone abroad, but his service was effected through counsel. In the premise, this Court is of the view that respondent-husband has deeminglly consented to the present transfer application by not contesting the same.

4. I have heard learned counsel for the petitioner and have gone through the record of the case.

5. All the cases pending between the parties are aftermath of matrimonial discord. It would therefore be just, proper, appropriate and in the interest of both parties that all the cases are tried and decided at one place.

6. Learned counsel for the applicant also relies upon judgment of Hon'ble Apex Court in case titled *Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 SC 396* wherein it is held that transfer of matrimonial proceedings initiated by the husband against wife, convenience of the wife ought to be looked into.

7. In the premise, without going to the allegations/counter allegations, the present transfer application is allowed. The petition in question pending before the Court of Learned Principal Judge, Family Court Camp at Phagwara District Kapurthala is ordered to be withdrawn from that Court and is transferred to the District Judge, Hoshiarpur for its disposal in accordance with law by the Court concerned.

(ARUN MONGA)
JUDGE

February 14, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No