

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

Transfer Application No. 1284 of 2022 (O & M)

Date of decision: 20 December, 2022

Sargam Randhawa

.....Petitioner

vs

Prabhpreet Singh Brar

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vijay Rana, Advocate with
Ms. Shreya Rana, Advocate
for the petitioner.

Mr. Nitin Jain, Advocate
for the respondent.

NIDHI GUPTA, J.

1. Prayer in this petition filed by petitioner-wife is for transfer of the Civil Suit for recovery filed by the respondent-husband, titled “Prabhpreet Singh Brar vs. Sargam Randhawa” pending in the Court of the Civil Judge (Jr. Divn.), Chandigarh to a Court of competent jurisdiction at Jalandhar.

2. Learned counsel for the petitioner has contended :-

- i) that the parties were married on 25.4.2016 according to Sikh rites and rituals.
- ii) that no child was born out of this wedlock.
- iii) that the petitioner-wife is living separately from the respondent-husband since 09.8.2019 and living with her parents at their mercy at Jalandhar.
- iv) that the petitioner is unemployed, having no source of income and totally dependent upon her parents and the

respondent-husband, who is working as First Officer (Airbus), with Emirates Airlines, Dubai and earning more than Rs.5,50,000/- per month besides getting perks from the employer worth more than Rs.3,00,000/- per month, is not paying anything to her towards maintenance.

- v) The respondent-husband has filed a suit for recovery of Rs.38,74,000/- against the petitioner-wife, which is pending consideration before the Court of the Civil Judge (Jr. Divn.), Chandigarh.

The proceedings arising out of petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 filed by the petitioner-wife, are pending in the Courts having competent jurisdiction at Jalandhar.

- v) that the distance between place of residence of the petitioner-wife i.e. Jalandhar and the place of proceedings in the Civil Suit for recovery, filed by the respondent-husband, pending before the Civil Judge(Jr. Divn.), Chandigarh, is about 150 kilometers of one side.
- vi) that the petitioner is living with her old aged parents at Jalandhar, there is no able bodied person in the family of the petitioner, who can accompany her to the Court of proceedings at Chandigarh.

3. It is inter alia on these grounds that petitioner prays for transfer of the case, as detailed in para 1 above.

4. In response to the notice of motion, the respondent has put in appearance through counsel and filed the reply controverting the contents of the present petition as under :-

- i) That the respondent is working as First Officer (Airbus), with Emirates Airlines, Dubai and presently residing in Dubai and the Civil Suit for recovery, which is the subject matter of the present petition, has been filed by the respondent through

his father-Gurbirinder Singh being his Special Power of Attorney Holder.

- ii) That the father of the respondent is an old person of 67 years of age, senior citizen and is a heart patient, who has recently undergone Percutaneous Transluminal Coronary Angioplasty (PTCA) and a stent in Left Anterior Descending Artery (LAD) has been implanted from Paras Hospital, Panchkula and need to undergo repeated follow-ups from the same hospital. Copies of the surgery/medical record of the father of the respondent are annexed with the reply as Annexure R-1. Therefore, it would be very difficult for such an old aged and heart patient person to go to Jalandhar to attend the Court proceedings.
- iii) That in the matrimonial cases the proceedings are generally transferred taking into account the convenience of the wife, however, in the present case, the same is not a matrimonial case but is a Civil Suit and therefore, the petitioner-wife need not to come present in person on every date of hearing except for recording evidence purpose.
- iv) That the petitioner is well aware that her husband is working as a Pilot and cannot pursue the Civil Suit personally and therefore, his aged father being Special Power of Attorney holder is pursuing the suit and in order to torture mentally and physically the petitioner is seeking transfer of the Civil Suit at Jalandhar because the petitioner, who is young and well educated and while she can travel all over the world for work, then for what reason she is expressing her inability to defend the said Civil Suit filed at her matrimonial place at Chandigarh, which

is hardly 2 to 2-½ hours drive from Jalandhar and even she has no responsibility of any child.

5. In response to the said reply filed by learned counsel for the respondent, rejoinder to the said reply has been filed by learned counsel for the petitioner reiterating the facts as discussed above.

4. I have heard learned counsel for the parties.

5. After hearing learned counsel for the parties and perusing the records, I am of the view that the respondent, who is working in Dubai is not in a position to personally attend the Court proceedings and because of which he authorized his father-Gurbirinder Singh being GPA to pursue the Court proceedings. The father of the respondent is an old aged person and as per medical record (Annexure R-1) he has recently undergone Percutaneous Transuminal Coronary Angioplasty and stent has been installed in Left Anterior Descending Artery.

6. On the other hand, the petitioner is well educated and has travelled the world all alone, it should not be difficult for her to join the Court proceedings at Chandigarh by travelling for 2 to 2-½ journey and that too not on daily basis but only on the date of hearing. She can also pursue the proceedings in the said Civil Suit through her counsel and only for recording her testimony and for cross-examination she must have present there.

7. This Court is well aware of the preponderance of law in cases of transfer emanating from matrimonial disputes is in favour of the wife. However, in certain similar cases the Hon'ble Supreme Court, as well as this Court have refused relief to the wife. One such case which may be referred to is: **(2006) 9 SCC 197 'Anindita Das Vs.**

Srijit Das' wherein Hon'ble Supreme Court under similar circumstances dismissed the wife's application seeking transfer of petition filed by the husband. Reference in this regard may also be made to two cases of this Court where, insimilar circumstances this Court had dismissed transfer applications filed on behalf of the wife. These are: **TA no. 126 of 2018 Smt. Akhwinder Kaur Vs. Sh. Gurpreet Singh;** and **TA No. 299 of 2019 Nisha alias Manisha vs. Amarveer Yadav.**

8. In view of the above, I do not find any ground to accede the request of the petitioner to transfer the Civil Suit for recovery filed by the respondent from Chandigarh to the Court of competent jurisdiction at Jalandhar.

9. Consequently, the petition is hereby dismissed.

10. Pending application(s), if any, stand disposed of.

20 December, 2022

Vijay Asija

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

YES/NO

Whether Reportable

YES/NO