

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-1299-2022 (O&M)
Date of decision: 27.10.2022

Sushmita

....Petitioner

Vs.

Sarjeet and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Mukesh Yadav, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for transfer of Civil Suit for permanent injunction bearing CS No.285/2022 filed by respondent No.1, pending before the Addl. Civil Judge (Sr. Divn.), Bawal, District Rewari to the competent Court of jurisdiction at Narnaul, District Mahendergarh.

Learned counsel for the petitioner has argued that from a bare perusal of the suit, it is apparent that same is drafted in a manner, if it is filed on behalf of the husband, as all the allegations regarding relationship of husband and wife are detailed in the suit and only prayer is that the petitioner should not harass respondent No.1-plaintiff. It is further submitted that on the face of it, the suit is an offshoot of matrimonial

discord between the petitioner and her husband, which is instituted by respondent No.1 just to harass the petitioner.

Learned counsel has referred to the order dated 18.10.2022 passed in TA-1250-2022, vide which petition under Section 13 of Hindu Marriage Act filed by husband of the petitioner stands transferred from Rewari to Narnaul.

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 has further relied upon **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627**, wherein the Hon'ble Supreme Court held as under: -

"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.

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.”

After hearing the counsel for the petitioner, considering the fact that issuance of notice to the respondents has the consequences of staying further proceedings before the trial Court, otherwise the petitioner will have to bear the litigation expenses and transportation expenses and in view of the fact that even in case notice of motion is issued, even the respondents have to bear the litigation expenses and in view of the judgments in **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. Civil Suit for permanent injunction bearing CS No.285/2022 filed by respondent No.1, pending before the Addl. Civil Judge (Sr. Divn.), Bawal, District Rewari will be transferred to the competent Court of jurisdiction at Narnaul, District*

Mahendergarh.

2. *The District Judge, Mahendergarh will assign the said suit to the competent Court of jurisdiction.*
3. *The Addl. Civil Judge (Sr. Divn.), Bawal is directed to transfer all the record pertaining to the aforesaid suit to District Judge, Mahendergarh.*
4. *The parties are directed to appear before the District Judge, Mahendergarh within a period of 01 month from today.*

Present petition is disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

27.10.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No